

APPEAL NO. 041740
FILED AUGUST 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 22, 2004. The hearing officer resolved the disputed issues by deciding that on May 27, 2003, the respondent (claimant) sustained a compensable injury and had disability beginning on June 2, 2003, and continuing through the date of the CCH. The appellant (carrier) appealed, disputing the compensable injury and disability determinations. The claimant responded, urging affirmance of the disputed determinations.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issues of compensable injury and disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier contends that the hearing officer misallocated the burden of proof regarding disability. The carrier correctly points out that the claimant has the burden of proving disability and it is error to require the carrier to prove when disability stops. Texas Workers' Compensation Commission Appeal No. 93953, decided December 7, 1993. However, we cannot conclude that the hearing officer's comments in her discussion of the evidence established that she misallocated the burden of proof. Rather, from the evidence before her, she found and concluded that the claimant had disability continuing through the date of the CCH. The claimant's testimony and medical records in evidence support the hearing officer's determination on the disability issue. We conclude that the hearing officer's determination on the disability issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **VANLINER INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Daniel R. Barry
Appeals Judge