

APPEAL NO. 041863  
FILED SEPTEMBER 20, 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 was held on June 30, 2004, with the record held open until July 7, 2004, for the submission of written closing arguments. The hearing officer resolved the disputed issues by deciding that on \_\_\_\_\_, the respondent (claimant) sustained a compensable injury and that the claimant had disability beginning on March 11 and continuing through May 6, 2004. The appellant (carrier) appealed, disputing both the compensable injury and disability determinations. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of his employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Additionally, the claimant had the burden to prove that he had disability as defined by Section 401.011(16). There was clearly a conflict in the medical evidence as to whether the claimant's injury was caused by his work activities. Dr. H testified that he had reviewed the medical literature and could find no instance wherein lifting was a cause of spontaneous pneumothorax. Dr. H opined that the claimant had an ordinary disease of life that was not work related. In evidence was correspondence dated March 19, 2004, from Dr. He, who treated the claimant. Dr. He opined that the pneumothorax itself was induced by heavy lifting and is considered, therefore, to be occupationally related. The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolves conflicts in the evidence, including the medical evidence, and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Although there are medical opinions in evidence which are contrary to Dr. He's opinion that the claimant's pneumothorax was caused by heavy lifting, we conclude that Dr. He's opinion along with the claimant's testimony provide sufficient evidence to support the hearing officer's decisions that the claimant sustained a compensable injury on \_\_\_\_\_, and had disability beginning on March 11 and continuing through May 6, 2004, and that those determinations are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

**LEON CROCKETT  
1600 NORTH COLLINS BOULEVARD  
RICHARDSON, TEXAS 75080-3591.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge