

APPEAL NO. 041865
FILED SEPTEMBER 13, 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 29, 2004. The hearing officer determined that the appellant (claimant herein) sustained a compensable injury on _____, and had disability beginning on January 6 and continuing through February 4, 2004. The claimant appeals, contending his disability continued through the date of the CCH. The respondent (carrier herein) replies that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Disability is a question of fact to be determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Disability can be established by a claimant's testimony alone, even if contradictory of medical testimony. Texas Workers' Compensation Commission Appeal No. 92285, decided August 14, 1992; Texas Workers' Compensation Commission Appeal No. 92167, decided June 11, 1992. There was clearly conflicting evidence in this case concerning disability and based upon the above standard of review, we find no basis to reverse the hearing officer's decision concerning disability.

The decision and order of the hearing officer are affirmed.

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

**LEO F. MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS, 75251-2237.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge