

APPEAL NO. 041866
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 was held on June 28, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____, and because the claimant did not have a compensable injury he did not have disability.

The claimant appealed the adverse decision on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant, a front end loader operator, contends that he sustained a repetitive trauma injury operating an old front end loader with a defective seat. There was conflicting evidence whether the seat had been repaired and whether the claimant had been injured in an October 2, 2002, motor vehicle accident. There was other conflicting evidence in the form of medical records and testimony. The claimant had been employed in August 2002, and his employment was terminated on January 13, 2003, for failing a drug screen test. The claimant asserts an _____, date of injury pursuant to Section 408.007.

There was conflicting and inconsistent evidence presented in this case which presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

**WILLIAM S. McINTYRE
12222 MERIT DRIVE, SUITE 1660
DALLAS, TEXAS 75251-3212.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge