

APPEAL NO. 041867  
FILED SEPTEMBER 16, 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 July 6, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, extends to include a closed head injury and that the claimant had disability resulting from the injury of \_\_\_\_\_, for the following periods: December 2 through December 4, 2001, three days; October 9 through October 10, 2002, two days; November 1, 2002, one day; November 29, 2002, one day; December 29, 2002, one day; March 5, 2003, one day; April 30, 2003, one day; July 8, 2003, one day; and from September 16, 2003, through the date of the CCH and at no other time. The claimant appealed that portion of the hearing officer's determination that found that he had disability from September 16, 2003, through the date of the CCH. The respondent (carrier) responded that the parties stipulated to the dates of disability, if the hearing officer found that the claimant sustained a closed head injury. The injury determination has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The parties stipulated that if the claimant's compensable injury of \_\_\_\_\_, extends to include a closed head injury, the dates of disability were as follows: December 2 through December 4, 2001, three days; October 9 through October 10, 2002, two days; November 1, 2002, one day; November 29, 2002, one day; December 29, 2002, one day; March 5, 2003, one day; April 30, 2003, one day; July 8, 2003, one day; and from September 16, 2003, through the date of the CCH.

We have reviewed the complained-of determination and conclude that the disability issue involved a fact question for the hearing officer. Disability is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). The claimant asserts in his appeal that he had disability from August 17, 2003, through the date of the CCH. The hearing officer reviewed the record and decided what facts were established and he concluded that he had disability for the dates stipulated and "at no other time." We conclude that the hearing officer's disability determination is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Robert W. Potts  
Appeals Judge