

APPEAL NO. 041874  
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 July 6, 2004. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and had disability from March 23, 2004, through the date of the hearing. The appellant (carrier) appeals these determinations. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Whether the claimant sustained a compensable injury and had disability were factual questions for the hearing officer to resolve. 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). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is 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, 176 (Tex. 1986).

The carrier complains that the hearing officer found that the claimant sustained a compensable injury on \_\_\_\_\_, when the issue presented for resolution was whether he had sustained a compensable injury on (alleged date of injury). In Texas Workers' Compensation Commission Appeal No. 981141, decided July 15, 1998, the Appeals Panel stated: "A hearing officer is not bound by the date of injury set forth in a [benefit review conference] report if the evidence at the [hearing] indicates otherwise." As the claimant actually pursued a \_\_\_\_\_, date of injury at the hearing and the evidence supports this date, we perceive no error in the hearing officer's compensability determination.

The hearing officer's decision and order are affirmed.

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 STREET, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge