

APPEAL NO. 041933
FILED SEPTEMBER 30, 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 7, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and had disability beginning on January 20, 2004, and continuing through the date of the hearing. The appellant (carrier) appealed, arguing that the determinations are both so contrary to the great weight of the evidence as to be manifestly wrong and unjust and legally incorrect. The claimant responded, urging affirmance.

DECISION

Affirmed as reformed.

Whether the claimant sustained a compensable injury and had disability are factual questions 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision that the claimant sustained a compensable injury is supported by sufficient evidence and we affirm.

We likewise affirm the hearing officer's determination that the claimant had disability. We note that the claimant testified, and the hearing officer found in her first Findings of Fact No 4,¹ that the claimant had disability from November 3 through November 18, 2003. The hearing officer's Conclusions of Law No. 4 and Decision both reflect that the claimant had disability from January 20, 2004, through the date of the hearing. We reform Conclusions of Law No. 4 and the Decision to comport with both the evidence presented and the first Findings of Fact No. 4. As reformed, we find that the claimant had disability from November 3 through November 18, 2003, and at no other time.

¹ We note there are two Findings of Fact No. 4.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Daniel R. Barry
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge