

APPEAL NO. 042114
FILED OCTOBER 18, 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 August 3, 2004. The hearing officer determined that the respondent (claimant) had disability beginning May 2, 2003, and continuing through the date of the CCH.

The appellant (carrier) appeals, basically on sufficiency of the evidence grounds citing evidence it believes is contrary to the hearing officer's decision. The file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right foot injury on _____. The claimant was released to light duty with restrictions and subsequently full duty on January 28, 2003. The circumstances of the claimant's termination of employment are disputed. The claimant subsequently changed treating doctors to Dr. M, who took the claimant off work on May 2, 2003. The claimant had right foot surgery on April 19, 2004. The disability period at issue is from May 2, 2003, to the date of the CCH. There was conflicting evidence regarding lack of medical treatment while the claimant was out of state due to what the claimant said was illness in the family. There was also a dispute regarding the fact that Dr. M's reports and Work Status Report (TWCC-73) were signed by Dr. M's physician's assistant. Through out the period at issue the claimant testified that she was unable to work (obtain and retain employment) due to her compensable right foot injury.

This case involved conflicting evidence. We would note that as a general rule, in workers' compensation cases, disability, as defined in Section 401.011(16), may be established by the testimony of the claimant alone, if believed by the trier of fact. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of 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 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.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge