

APPEAL NO. 042224
FILED OCTOBER 25, 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 August 10, 2004. The hearing officer determined that the respondent (claimant) had disability from January 16, 2004, through the date of the hearing. The appellant (carrier) appeals this determination, asserting that the hearing officer applied an improper standard and that the decision is contrary to the great weight of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from January 16, 2004, through the date of the hearing. Disability means the inability to obtain and retain employment at wages equivalent to the preinjury wage because of the compensable injury. Section 401.011(16). It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Contrary to the carrier's assertion, we cannot conclude that the hearing officer applied an improper legal standard, nor can we conclude that the hearing officer's determination is 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).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **BITUMINOUS CASUALTY CORPORATION** and the name and address of its registered agent for service of process is

**GLENN CAMERON
222 WEST LAS COLINAS BOULEVARD, SUITE 1720
IRVING, TEXAS 75016-7968.**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge