

APPEAL NO. 042277
FILED OCTOBER 29, 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 12, 2004. The hearing officer resolved the disputed issues by deciding that the compensable injury of _____, extends to and includes the diagnosed low back strain/sprain after January 31, 2004, and/or the diagnosed acute strain/sprain; and that the respondent (claimant) had disability resulting from an injury sustained on _____, beginning March 18, 2003, and continuing through July 30, 2003, and again beginning on February 17, 2004, and continuing through the date of the hearing. The appellant (carrier) has appealed both the extent-of-injury and disability determinations. The appeal file does not contain a response from the claimant.

DECISION

Affirmed as reformed.

The parties stipulated that the claimant sustained a compensable injury on _____. The hearing officer determined that the claimant's compensable injury extended to include the diagnosed low back strain/sprain after January 31, 2004, and/or the diagnosed acute strain/sprain, and that the claimant had disability beginning March 18, 2003, and continuing through July 30, 2003, and again beginning on February 17, 2004, and continuing through the date of the hearing.

The issues of extent of injury and disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence under Section 410.165(a). 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). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In this case, there was conflicting evidence on the questions of disability and of whether the compensable injury extended to include low back strain/sprain after January 31, 2004, and/or the diagnosed acute strain/sprain. The hearing officer's determinations on the disputed issues are supported by the claimant's testimony and the reports of his treating doctor. Further, the hearing officer noted that the doctor who examined the claimant at the carrier's request, agreed with the treating doctor's assessment that the recurrent pain complaints were at least in part related to the compensable injury of _____. Our review of the record does not reveal that the hearing officer's extent-of-injury and disability determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse those determinations on appeal.

Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We reform the Decision to conform to the conclusions of law determined regarding the disputed issues: The compensable injury of _____, includes the diagnosed low back sprain/strain after January 31, 2004, and/or the diagnosed acute sprain/strain, and that the claimant has had disability resulting from an injury sustained on _____, beginning on March 18, 2003, and continuing through July 30, 2003, and again beginning on February 17, 2004, and continuing through the date of the CCH.

We affirm the decision and order as reformed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** 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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge