

APPEAL NO. 032435  
FILED OCTOBER 29, 2003

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 11, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) had disability as a result of the injury she sustained on \_\_\_\_\_, beginning May 17, 2001, through the date of the CCH. The hearing officer further determined that the claimant is not entitled to temporary income benefits (TIBs) during the period of time she was receiving TIBs for her September 12, 2000, injury or after 104 weeks from the date income benefits began to accrue from her \_\_\_\_\_, injury which was May 17, 2001. The appellant (carrier) appealed, arguing that the disability determination was against the great weight of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed as reformed.

It is undisputed that the claimant sustained a compensable injury on \_\_\_\_\_. Section 401.011(16) defines "disability" as the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that she had disability. Conflicting evidence was presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In challenging the hearing officer's disability determinations, the carrier emphasizes the same factors it emphasized at the hearing. The significance of those factors was a matter for the hearing officer, as the fact finder, to determine. 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. Accordingly, no sound basis exists for us to reverse the injury and disability determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We note that the hearing officer's decision appears to state that income benefits began to accrue on May 17, 2001. However, in accordance with Section 408.082, TIBs accrue and become payable on the eighth day of disability. We strike that language in both Conclusion of Law No. 5 and the decision which concludes the date income benefits began to accrue was May 17, 2001.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**HAROLD FISHER, PRESIDENT  
3420 EXECUTIVE CENTER DRIVE, SUITE 200  
AUSTIN, TEXAS 78731.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Edward Vilano  
Appeals Judge