APPEAL NO. 92274

A contested case hearing was held in (city), Texas, on May 22, 1991, (hearing officer) presiding, to determine whether respondent injured his back in the course and scope of his employment on (date of injury), and whether he provided notice of such injury to his employer, (appellant), no later than 30 days after the date of his injury. The hearing officer, finding that respondent reinjured his left hip on (date of injury) while working for appellant, and that he notified his supervisor on (date) that the injury was job related, concluded that respondent had reinjured his left hip on (date of injury) in the course and scope of his employment, and had provided notice of the injury within the time required by the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. art. 8308-5.01 (Vernon Supp. 1992) (1989 Act). On appeal, appellant challenges the sufficiency of the evidence to support these findings and conclusions. Respondent did not file a response to the request for review.

DECISION

Finding the evidence sufficient to support the challenged findings and conclusions, we affirm.

On (date of injury), while employed as a maintenance laborer at one of appellant's housing projects, respondent felt immediate pain in his left hip and leg when he picked up his tool pouch, swung it up onto his shoulder, and turned around. He continued to work; however, his limping was later noticed by (Mr. Q), appellant's executive director, and by (Mr. M), respondent's supervisor. On (date), (M), (Mr. M) and (Mr. Q) talked to respondent about his condition and (Mr. Q) directed respondent to see a doctor. They said respondent told them he thought it was a recurrence of an old left leg injury he sustained in June 1989. On (date), respondent saw (Dr. S), said he was told he had a pinched nerve, and the next day so advised (M), (Mr. Q) and (Mr. M). (Mr. Q) then asked respondent whether he could continue to work to which respondent replied in the affirmative. He worked until January 31, 1992 when (Mr. Q) placed him on administrative separation for incapacitation. Prior to that time, however, respondent had brought various doctors' slips to (Mr. Q) and, on December 25th, had advised (Mr. M) of the results of December 24th x-rays. He also iterated that he had hurt himself on the job on (date of injury). Respondent testified that a myelogram and CT scan accomplished in April 1992 revealed he had a herniated disc. Medical records indicated respondent had been treated in June 1989 for sciatica or a nerve impingement syndrome but did not specifically address the relationship between his (date of injury) injury and his prior condition. Respondent contended he reinjured his left hip and leg in the (date of injury) incident.

We have carefully reviewed the record including the testimony and exhibits, and are satisfied that there is sufficient evidence to support the challenged findings and conclusions of the hearing officer. An accident does not have to be witnessed to be compensable and a claimant's testimony alone can establish the occurrence of an injury. Gee v. Liberty Mutual Insurance Co., 765 S.W.2d 394 (Tex. 1989). The hearing officer could believe all,

part, or none of respondent's testimony (Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.)), and, as the finder of fact, had the sole responsibility for judging the weight and credibility of the evidence. Article 8308-6.34(e) (1989 Act). We are satisfied that no reversible error was committed by the hearing officer and that the findings were not so against the great weight and preponderance of the evidence as to be manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660, 662 (1951); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The decision of the hearing officer is affirmed.

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Philip F. O'Neill
Appeals Judge

CONCUR:

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Stark O. Sanders, Jr.
Chief Appeals Judge

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Joe Sebesta
Appeals Judge