APPEAL NO. 93748

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On July 29, 1993, a contested case hearing (CCH) was held in (city), Texas, with (hearing officer) presiding as hearing officer. The sole issue to be determined at this CCH was: "What is the extent of claimant's injuries of (date of injury)?" The hearing officer determined that the appellant, claimant herein, sustained injuries to her back and neck, but not her bladder, as a result of the accident on (date of injury).

Claimant contends that the hearing officer erred in certain findings and conclusions, and that a pre-existing bladder condition had been aggravated by the (date of injury) accident. Respondent, District herein, did not file a response.

DECISION

The decision of the hearing officer is affirmed.

Claimant testified that she was formerly employed by the District as a school bus driver. Claimant acknowledged she had been involved in a number of incidents and accidents in the 1991-1992 school year. Many of claimant's complaints and injuries are overlapping and the hearing officer heard testimony on both the (date of injury), accident and a February 3, 1992, incident in this hearing. The hearing officer stated, on the record, she would write separate decisions on the two accidents. This case only involves the (date of injury), accident. The District has accepted liability for neck and back injuries, leaving only the matter of whether the accident caused or aggravated claimant's "bladder problem."

Claimant testified that on (date of injury), as she was driving her school bus out of the parking lot, the rear wheel of the bus she was operating came in contact with the rear bumper of an "illegally" parked vehicle. The claimant initially testified that the bus "was thrown across the street" and the vehicle she hit was "a total loss." On cross-examination, claimant conceded that the bus had sustained no damage and that she had finished her route in the same bus involved in the accident. Claimant testified she has seen a number of doctors (at least six) but it is not clear whether the medical treatment she received was related to this accident or other incidents. At least one doctor,(Dr. H), was a urologist, but the record has no report from him.

Claimant testified that she had a "urinary stricture." Although not entirely clear from the testimony, claimant apparently had a prior bladder problem which on occasion caused painful urination and since the accident claimant apparently contends her back injury aggravated her bladder condition and she now has problems controlling her bladder. Claimant stated several of her doctors, including Dr. H, have told her that her bladder condition is the result of the injuries she sustained to her neck and back. No medical reports supporting this contention were offered. Claimant did offer affidavits from two witnesses who stated that claimant told her supervisor she was going to the doctor for "pain in her lower back, neck and painful pressure she felt in her bladder."

The hearing officer found that claimant was involved in a minor motor vehicle accident in the performance of her duties on (date of injury), and that claimant sustained injuries to her back and neck (which the District has accepted), but "did not sustain an injury to her bladder." Claimant contends that this finding is in error and that she is ". . . still on the road of treatment to recovery which is . . . not without great cost."

The hearing officer, in the discussion portion of her decision, stated that the claimant bore the burden of proving by a preponderance of the credible evidence she sustained a bladder injury in the (date of injury) incident and that since causation of such an injury ". . . is not something which would be within the realm of common experience, it is logical to require claimant to supply medical evidence of causation of this injury." We do not necessarily endorse the quoted portion of that statement; however, the claimant does have the burden of establishing by a preponderance of the evidence that she sustained her injury as she alleged. *See* Texas Workers' Compensation Commission Appeal No. 93447, decided July 20, 1993. The hearing officer goes on to state "[e]ven if medical evidence of causation is not required . . . it does not appear that claimant has sustained her burden of proof." The hearing officer is the sole judge of the weight and credibility to be given to the evidence (Section 410.165(a)) and while not obligated to accept the testimony of a claimant, as an interested party, at face value, issues of injury and causation may be established by the testimony of a claimant alone. Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App. - Amarillo 1974, no writ); Texas Workers' Compensation Commission Appeal no. 91083, decided January 6, 1992. The hearing officer notes that claimant appeared to greatly exaggerate the severity of the accident in question, that none of the medical reports submitted dealt with her bladder condition and that the claimant's testimony does not appear ". . . sufficiently reliable to constitute a basis for a decision in her favor." Those are factual findings and conclusions within the purview of the hearing officer. As an interested party, claimant's testimony only raises issues of fact for the determination of the fact finder, which under these circumstances is the hearing officer. Escamilla v. Liberty Mutual Insurance Company, 499 S.W.2d 758 (Tex. Civ. App. - Amarillo 1973, no writ); Texas Workers' Compensation Commission Appeal No. 93673, decided September 17, 1993.

The hearing officer's determinations are supported by sufficient evidence. Where, as here, there is sufficient evidence to support the hearing officer's determinations, there is no sound basis to disturb the decision. The decision of the hearing officer is not so against the great weight and preponderance of the evidence as to be manifestly wrong

or unjust. In re King's Estate, 244 S.W.2d 660 (Tex. 1951); Pool v. Ford Motor Co., 751 S.W.2d 629, (Tex. 1986). The hearing officer's decision is affirmed.

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Thomas A. Knapp
Appeals Judge

CONCUR:

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Lynda H. Nesenholtz
Appeals Judge

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Gary L. Kilgore
Appeals Judge