APPEAL NO. 990567

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 March 1, 1999. The issues at the CCH were did the respondent (claimant) sustain a compensable injury on _____, and did the claimant have disability. The hearing officer found that the claimant sustained a compensable injury on _____, and had disability from October 28, 1998, and continuing through the date of the hearing. The appellant (carrier) appeals the findings of fact and conclusions of law of the hearing officer on sufficiency grounds. The claimant responds that sufficient evidence supports the challenged determinations.

DECISION

Affirmed.

The claimant testified that on _____, he was unloading freight from a truck when a display weighing approximately 120 pounds broke apart, and while trying to stop it from falling, he injured his left wrist. The claimant testified that he sought medical treatment with Dr. J on _____. The claimant admitted to a prior compensable injury to his right wrist and elbow in 1995 due to repetitive trauma, which caused him to be off work until 1997. The claimant testified that in August 1998, he received a letter from his employer stating that he would not be considered a full-time employee and would not be receiving benefits after October 1998. As a result, the claimant filed a grievance with his union against his employer on October 30, 1998. The claimant testified that he has been unable to work since his injury on _____.

Dr. J's records indicate a diagnosis of left medial epicondylitis and left wrist sprain. The claimant received physical therapy in November and December 1998. The claimant had a nerve conduction study performed on the left upper extremity on January 8, 1999, which was abnormal. On _____, Dr. J took the claimant off work and as of January 8, 1999, had not released the claimant to return to work.

The carrier asserts on appeal that the claimant's story is "suspicious" and the alleged injury was not witnessed. That the injured party is the only witness to an injury does not defeat a valid claim. His testimony may be believed by the trier of fact and the testimony of others may be rejected. Texas Employers' Insurance Association v. Thompson, 610 S.W.2d 208 (Tex. Civ. App.-Houston, [1st Dist.] 1980, writ ref'd n.r.e.). When the claimant's testimony is that of an interested party, his testimony only raises an issue of fact for the trier of fact, Escamilla v. Liberty Mutual Insurance Co., 499 S.W.2d 758 (Tex. Civ. App.-Amarillo 1973, no writ), and the trier of fact has the responsibility to judge the credibility of the claimant and the weight to be given his testimony in light of the other testimony in the record. Burelsmith v. Liberty Mutual Insurance Company, 568 S.W.2d 695 (Tex. App. - Amarillo 1978, no writ). The Appeals Panel has stated that in workers'

compensation cases, the disputed issues of injury and disability can, generally, be established by the lay testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992.

The hearing officer was the sole judge of the weight and credibility to be given the evidence. Section 410.165(a). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We find there was sufficient evidence to support the determination of the hearing officer that the claimant did prove that he sustained a compensable injury on _____, and had disability from October 28, 1998, through the date of the CCH.

The decision and order of the hearing officer are affirmed.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Philip F. O'Neill
Appeals Judge