

APPEAL NO. 990995

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 April 14, 1999. The issues at the CCH were whether the appellant (claimant) sustained a compensable injury on \_\_\_\_\_, and whether she had disability resulting from such injury. The hearing officer found that the claimant sustained a compensable injury to her lower back and left elbow, and that she had disability from December 28, 1998, through January 21, 1999. Claimant appeals the finding that she only sustained an injury to her lower back and left elbow and urges that the evidence also supports injuries to her left hand and shoulder and asks that the Appeals Panel rule that those injuries are included in the compensable injury. Claimant also appeals the period of disability and urges that the evidence proves she had disability up to the CCH. Respondent (carrier) urges that the evidence is sufficient to support the findings, conclusions, and decision of the hearing officer and asks for affirmance. No appeal is brought on the issue of a compensable injury having been sustained on \_\_\_\_\_.

DECISION

Affirmed.

On \_\_\_\_\_, while leaving work, the claimant slipped on ice and fell on a curb, sustaining injuries. She testified concerning her injuries: "[w]ell, I hit both elbows; my left hand, these two fingers are numb; my elbow, hit it; I guess I jammed the shoulder; and this middle part of my back is still real sore if I do certain things." In sum, she indicated she injured her mid back, low back, elbows, and shoulders. Claimant stated she continued working on December 25th, 26th, and 27th, and that she went to Dr. A on December 28, 1998, who took her off work for a week. Dr. A subsequently extended off-work slips through January 21, 1999. The initial December 28, 1998, medical report from Dr. A indicates claimant presented for complaints of low back pain. Dr. A's assessment was low back pain, contusion to the elbow, and he notes that x-rays showed "negative LS spine views, left elbow negative, left knee negative." He indicated light duty for one week. A report dated January 13, 1999, indicates claimant complains of continued pain to the low back and some numbness to her left hand fifth digit. He also notes that she is on workers' compensation and is seeing a chiropractor. His assessment is again low back pain, left elbow injury. He states that she can return to light duty with a lifting restriction of 10 pounds. Other records from Dr. A show the claimant was seen for other unrelated medical conditions.

Claimant stated she went to a chiropractor, Dr. H, on December 29, 1998, and states that he treated her with manipulations and other conservative stimulation procedures over the next couple of months. She stated he took her off work and returned her to part-time work (four hours a day) on March 6, 1999, and to six hours a day on April 8, 1999. Although a claimant's questionnaire shows complaints of lower back and left elbow injuries, Dr. H's initial medical records show a diagnosis including the left knee and shoulders and

his clinical assessment noted swelling of the left shoulder, elbow, and left knee. As indicated, he continued treating the claimant and issued off-work notes until a return to part-time work.

The hearing officer had the somewhat conflicting evidence before her from Dr. A and from Dr. H. In resolving the conflicts, she found more persuasive the evidence which showed the claimant's injuries to be to the low back and left elbow. Resolving conflicts in the evidence is a matter for the hearing officer. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); Section 410.165(a). This includes resolving differences in expert medical opinion. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Here, the hearing officer chose to accept as more persuasive the records and end of off-work releases on January 21, 1999, from Dr. A. And it is apparent she did not give preponderant weight to the claimant's testimony. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980. While different inferences are possible from the evidence, we cannot conclude that the determinations of the hearing officer were so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Employers Casualty Company v. Hutchinson, 814 S.W.2d 539 (Tex. App.-Austin 1991, no writ); Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). Accordingly, we affirm the decision and order of the hearing officer.

---

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Judy L. Stephens  
Appeals Judge