

APPEAL NO. 000255

On January 10, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The hearing officer resolved the disputed issues by deciding that respondent (claimant) sustained a compensable injury on _____, and that claimant has had disability as a result of the _____, compensable injury from June 10, 1999, through the date of the CCH. Appellant (carrier) requests that the hearing officer's decision on both issues be reversed and that a decision on both issues be rendered in its favor. No response was received from claimant.

DECISION

Affirmed.

Claimant had the burden to prove that he was injured in the course and scope of his employment and that he had disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The claimant testified that he fell off a ladder at work on _____, while spray painting employer's apartment building and injured his back, neck, and shoulders, and that he has been unable to work since that date. The accident was apparently unwitnessed. Medical reports, recorded statements, and a written statement were in evidence. Claimant has been receiving chiropractic treatment for his claimed work-related injuries since June 11, 1999, and was taken off work. A statement from a coworker indicates that claimant said at some point that he had fallen at his sister's house but that he also said that he fell off the ladder at work on _____. Another person stated that claimant was painting on _____, but that he said that he could not go up the ladder because it made him dizzy and so another worker went up the ladder. As the trier of fact, the hearing officer had the responsibility to resolve the conflicts and inconsistencies in the evidence. The hearing officer apparently found the claimant's testimony credible. In workers' compensation cases, the issues of injury and disability may generally be established by the claimant's testimony, if found credible by the trier of fact. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). The hearing officer found that on _____, while performing his duties as a spray painter, claimant fell off a ladder and sustained injuries, and that, because of the _____, compensable injury, claimant has been unable to obtain and retain employment at wages equivalent to his preinjury wages, from June 10, 1999, through the date of the CCH. The hearing officer concluded that claimant sustained a compensable injury on _____, and that he has had disability as a result of his compensable injury from June 10, 1999, through the date of the CCH, January 10, 2000. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Dorian E. Ramirez
Appeals Judge