

## APPEAL NO. 000600

This appeal arises pursuant to the Texas Workers= Compensation Act, TEX. LAB. CODE ANN. ' 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 4, 2000. The hearing officer concluded that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; and that claimant had disability from September 20, 1999, to December 1, 1999, and from January 1, 2000, to January 31, 2000. The appellant self-insured (Acarrier@ herein) appealed on sufficiency grounds. The file does not contain a response from claimant.

### DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant sustained a compensable injury and that she had disability. The applicable law and our appellate standard of review are stated in Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995; and Section 401.011(16).

The hearing officer summarized the evidence in his decision. Briefly, claimant testified that she was working as a custodian the night of Friday, \_\_\_\_\_, and that she hurt her shoulder and neck while throwing out trash. She said she did not think it was serious, so she finished her shift and went home. Claimant said that over the weekend she began to feel worse and her shoulder swelled, so she went to her supervisor Monday and said she wanted to report an injury. Claimant testified that she was told it was Ajust stress@ and to go to her family doctor. Claimant said she did not work \_\_\_\_\_; that she has not worked except for two days since that time; that she is able to do light work only; that she is still having pain; and that she has not been released to return to work. Claimant said she treated with Dr. R for her injury. The record contains off-work slips from Dr. R that state that claimant may not return to work because of a cervical and shoulder sprain/strain.

The hearing officer was the judge of the credibility of the witnesses and medical evidence. As the fact finder, he considered the issue of whether claimant sustained an injury at work on \_\_\_\_\_, and resolved this issue against claimant. The matters carrier raised in its brief involved credibility and fact issues, which the hearing officer resolved. The hearing officer is the sole judge of the credibility of the evidence. We will not substitute our judgment for his in that regard because the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra. Given our standard of review we will not overturn the hearing officer's decision. *Id.* We also affirm the disability determination. The evidence from claimant and Dr. R supports the hearing officer-s disability determination.

We affirm the hearing officer's decision and order.

Judy L. Stephens  
Appeals Judge

CONCUR:

Robert W. Potts  
Appeals Judge

Susan M. Kelley  
Appeals Judge