

APPEAL NO. 001760

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 July 7, 2000. The appellant (carrier) and the respondent (claimant) stipulated that the claimant sustained a compensable injury on _____. The hearing officer determined that the compensable injury is a producing cause of the claimant's pain disorder, dysthymic disorder, and depression. The carrier appealed, urged that the determination of the hearing officer is clearly wrong and is so against the weight of the evidence as to be manifestly unjust, and requested that the Appeals Panel reverse the decision of the hearing officer and render a decision that the compensable injury is not a producing cause of the pain disorder, dysthymic disorder, and depression. The claimant responded, urged that the evidence is sufficient to support the decision of the hearing officer, and requested that it be affirmed.

DECISION

We affirm.

The claimant testified that in 1990, she was first treated for depression; that she was prescribed Zoloft; that she took Zoloft off and on; that she was able to function; and that at the time she was injured, she was taking Zoloft, working about 70 hours a week, and was functioning without difficulty. She said that in June 1998 she was terminated because she could not work as the employer wanted her to; that she could not pay bills and was losing everything; that the bottom fell out of everything; that she had severe pain; that she had other stressors, but the injury was the main problem; and that on two occasions she took overdoses of pain medication to end her life.

The claimant's treating doctor, a chiropractor, referred her to Dr. S, a pain management and mental health specialist. In a report dated November 18, 1998, Dr. S opined that the claimant's constant pain and discomfort, erratic sleep pattern, preoccupation with concerns for prospects of resuming employment, functional limitations and financial stressors all contributed to her becoming progressively more stressed, depressed, and discouraged. The designated doctor referred the claimant to Dr. B, a psychiatrist, for psychological evaluation. In a report dated January 24, 2000, Dr. B said that prior to her injury, the claimant had a history of depression that was under control with medications; that the accident appeared to have exacerbated her depressive symptoms to the point where she became suicidal on two occasions; that she has a significant amount of psychological and emotional distress relative to her injury; that he assigned eight percent impairment for mental and behavioral disorders that are directly related to the compensable injury; and that the eight percent should be added to other impairments. The latest report offered by the carrier is dated October 5, 1998, prior to the claimant being referred to either Dr. S or Dr. B.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of any witness's testimony because the finder of fact judges the credibility of each and every witness, determines the weight to assign to each witness's testimony, and resolves conflicts and inconsistencies in the testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or unjust and is affirmed. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the decision and order of the hearing officer.

Tommy W. Lueders
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge