

APPEAL NO. 002453

Following a contested case hearing held on September 26, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issue by determining that the claimant's asserted cervical injury was not part of the compensable injury. The appellant (claimant) appealed, asserting that the hearing officer's decision is against the great weight and preponderance of the evidence. The respondent (carrier) responds that the hearing officer's decision is supported by the evidence and should be affirmed.

DECISION

Affirmed.

The claimant sustained an undisputed compensable left shoulder injury while working as a surgical nurse on _____. The claimant asserts that she has also sustained a cervical injury, characterized by cervical spasms which result in headaches, as a result of the incident which gave rise to the compensable left shoulder injury. The claimant offered the opinion of her treating doctor, Dr. C, a chiropractor, in support of her assertion. The carrier countered with the opinion of Dr. W, a medical doctor. Dr. W opined that the claimant's cervical condition is not referable to the _____, incident.

There was conflicting evidence adduced at the hearing. The hearing officer resolves the conflicts and determines what facts the evidence has established. 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 trier of fact may believe all, part, or none of any witness's 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. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. In this case, the hearing officer's decision is supported by the evidence.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge