

APPEAL NO. 002574

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 October 6, 2000. The issues at the CCH were whether the appellant (claimant) had sustained a compensable injury on _____; whether the claimant had disability as a result of the injury of _____; and whether the respondent (carrier) had waived the right to contest the compensability of the injury by not contesting compensability within 60 days of being notified of the injury.

The hearing officer determined that the claimant did not sustain a compensable injury, or have disability, and that the carrier did not waive the right to contest compensability of the claimed injury. The claimant appealed the adverse determinations on the grounds of sufficiency of the evidence. The carrier filed a response contending that the evidence was sufficient to support the hearing officer's determinations and that the decision and order should be affirmed.

DECISION

Affirmed.

The testimony and medical evidence were in conflict in regard to the disputed issues, and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. 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.

We affirm the hearing officer's decision and order.

Kathleen C. Decker
Appeals Judge

CONCUR:

Kenneth A. Hutchton
Appeals Judge

Thomas A. Knapp
Appeals Judge