

APPEAL NO. 002590

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 October 17, 2000. The appellant (carrier) has appealed, asserting the insufficiency of the evidence to support the hearing officer's determination that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that his injury extends to and includes the dislocation of his left shoulder; and that he had disability from February 12 through May 2, 2000. The claimant's response urges that the evidence is sufficient and that the hearing officer's decision should be affirmed.

DECISION

Affirmed.

The claimant testified that on \_\_\_\_\_ (all dates are in 2000), he felt a twinge and pain in his left shoulder as he pushed and pulled on an 1,800-pound crate of equipment to get it off the tailgate lift of a truck; that the pain increased throughout the day but he protected the shoulder and completed his shift as a delivery truck driver; that he applied ice to the shoulder when he got home; that he was off work the next day and decided to take a hot shower and try to stretch the left shoulder in the shower to ease the pain; and that as he reached his left arm up to the towel rack, the shoulder joint dislocated and he had to have it reduced at a hospital. The claimant indicated that Dr. O, who followed him after the joint reduction, kept him off work through May 2 and that he returned to his regular job on May 3. Dr. O wrote on March 7 that given that the claimant had never had a shoulder problem prior to the day he sustained a "muscle injury" and that he was still hurting the next day when he put himself into a position where the shoulder could dislocate, he, Dr. O, believes that "there is a direct and causal relationship between the injury and the resulting dislocation." According to the records, Dr. O released the claimant to return to his regular duties on May 2.

We are satisfied that the hearing officer, who is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), did not error in making the challenged factual findings and in reaching the challenged legal conclusions. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Robert W. Potts  
Appeals Judge