

APPEAL NO. 002615

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 19, 2000. With regard to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable right hip injury on _____ (all dates are 2000 unless otherwise noted).

The appellant (carrier) appeals, citing conflicting evidence and contending that the evidence "does not support a finding of a compensable injury." The carrier requests that we reverse the hearing officer's decision and render a decision in its favor. The appeals file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant was employed as a security guard ("loss prevention officer"). The claimant testified that at about 4:15 a.m. on _____, the golfcart ("mule") she was riding in stalled and that, after failing to get assistance, as she was pushing the golfcart, she felt a pop in her hip. There was a dispute regarding the terminology whether the claimant in reporting the accident and giving a history to doctors said that she felt a pop or a cramp and whether it was in her hip or groin. In any event, the claimant finished her shift at 5:00 a.m. and went to the hospital emergency room shortly thereafter. The claimant was in and out of the hospital a number of times and had exploratory surgery on June 12 as well as a number of tests, most of which were inconclusive. The hospital discharge summary of May 3 has a diagnosis of right hip strain, "[r]ight hip effusion, unclear etiology."

Evidence whether the claimant was limping before her shift was in dispute. The carrier suggests that activities from the claimant's second job may have caused her injury and stresses conflicts and contradictions in the evidence and various statements. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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).

We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses for that of the hearing officer.

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Kenneth A. Huchton
Appeals Judge