

APPEAL NO. 002623

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 et seq. (1989 Act). On October 23, 2000, a hearing was held. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) sustained an injury to his cervical and low back areas while working in the course and scope of his employment on _____, and that the claimant had disability from June 15, 2000, to October 3, 2000. The appellant (carrier) appealed. The claimant responded.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that the claimant sustained a compensable injury to his left middle finger on _____, when a tomato slicer fell and cut his finger. The claimant said that he injured his back and neck when he fell against the sink after cutting his finger. Dr. A diagnosed the claimant as having a cervical strain, a lumbar strain, and a left third finger laceration and took the claimant off work as of June 15, 2000. The claimant began working for another employer on October 4, 2000. A coworker testified that she saw the claimant cut his finger on the tomato slicer but did not see the claimant fall against the sink. Another coworker who walked the claimant to the hospital said that the claimant complained that his neck hurt. The claimant's supervisor said that the claimant did not report a back or neck injury.

The carrier appeals the hearing officer's decision that the claimant sustained an injury to his cervical and low back areas in the course and scope of his employment on _____, and that the claimant had disability from June 15, 2000, through October 3, 2000. There is conflicting evidence in this case with regard to the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence. Although there is contrary evidence, the claimant's testimony and the reports of Dr. A support the hearing officer's decision. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge