APPEAL NO. 002645

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 20, 2000, a hearing was held. The hearing officer decided that the respondent's (claimant) compensable injury was a producing cause of his current lumbosacral strain/sprain and that the claimant had disability resulting from the compensable injury from July 23, 2000, through the date of the hearing. The appellant (carrier) appealed, asserting that the hearing officer's decision was against the great weight and preponderance of the evidence and that the claimant did not have disability after July 23, 2000, because the claimant had been terminated from his employment for good cause unrelated to his injury. There is no response in the file from the claimant.

DECISION

Affirmed.

The claimant sustained an undisputed compensable injury to his low back and cervical area on _____. Several months thereafter, the claimant was involved in a motor vehicle accident (MVA) and sustained an exacerbation of symptoms related to the compensable injury. The carrier asserts that the claimant's MVA was the sole cause of the claimant's low back complaints. The hearing officer found that the MVA did not cause a worsening of the claimant's compensable injury and that determination is supported by objective medical evidence. The hearing officer also found that the claimant had continuing restrictions as a result of the compensable injury to his low back after the MVA. That conclusion is also supported by the evidence.

It is undisputed that the claimant was terminated on July 23, 2000, for reasons unrelated to the compensable low back injury. The carrier asserts that the claimant ceased to have disability after that date because the claimant's inability to earn his preinjury wage after that date was because of the termination, not the injury. The fact that a claimant is released for light duty is evidence that the effects of the injury continue and disability therefore exists; even a claimant terminated for cause may establish disability thereafter. *See* Texas Workers' Compensation Commission Appeal No. 91027, decided October 24, 1991. The carrier also asserted that the claimant had registered for unemployment benefits and, in doing so, had demonstrated that he no longer had restrictions on his ability to work resulting from the compensable injury. There is evidence from which the hearing officer could conclude that the claimant, although terminated, had continued restrictions, sought employment which would accommodate his restrictions and, therefore, continued to have disability resulting from the compensable injury after the termination.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). 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. 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). Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgement for hers. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Judy L. Stephens
Appeals Judge