

APPEAL NO. 002699

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 26, 2000. The hearing officer determined that respondent (claimant) sustained a new injury in _____; that she immediately reported the injury; that she had disability from June 14, 2000, to July 13, 2000; and that her average weekly wage (AWW) is \$396.00. Appellant (carrier) appealed all but the AWW determination on sufficiency grounds. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant sustained a new injury, that she timely reported the injury, and that she had disability. Carrier's contention is that claimant was not a credible witness and that, at most, claimant was suffering from a continuation of pain from a prior injury.

It was undisputed that claimant was still being treated for a 1997 compensable right shoulder injury. Claimant testified that she and other workers were injured in _____ when a cow who had escaped from the "floor" came into their area. Claimant said she jumped over a conveyor belt and hit her shoulder while trying to avoid the cow. She said she went to her supervisor, who sent her to the company nurse. There was medical evidence that claimant sustained a new injury while making sudden movements to avoid the runaway cow. The hearing officer judged the credibility of this evidence and determined what facts were established. The facts raised by carrier were for the hearing officer to consider in making his determinations. Carrier's assertion that claimant's testimony was not credible was something for the hearing officer to consider. After reviewing the evidence, we conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge