APPEAL NO. 002809

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 November 15, 2000. With regard to the issues before him, the hearing officer determined that (employer) did not tender a bona fide offer of employment (BFOE) to the appellant (claimant); that the claimant had disability from April 13, 2000 (all dates 2000 unless otherwise noted), through October 4 but not thereafter; and that the claimant did not sustain a compensable injury "to his groin area, nor to his testicle" in addition to the compensable left knee and low back injury of _____. The hearing officer's decision on the BFOE issue has not been appealed and has become final. Section 410.169.

The claimant appeals the disability issue contending that various doctors took him off work beginning April 13 and have continued to keep him off work. The claimant appeals the extent-of-injury issue contending that his groin pain "became much worse" after _____. The claimant requests that we reverse the hearing officer's decision on those issues and render a decision in his favor. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as an order filler at the employer's distribution center. The claimant testified that on _____, as he was moving or lifting a pallet, he felt back pain and dropped the pallet on his left knee. The carrier has accepted liability for a compensable low back and left knee injury. The claimant's testimony about his groin/testicular problem is somewhat contradictory. The claimant said both that he did not have groin pain at the time of the injury and subsequent testimony established that he had been treated for groin complaints since January. The claimant testified both that he has had groin pain at a 9 level on a scale of 1 to 10 and that the groin pain became much worse after _____ but the initial medical reports make no mention of groin complaints nor did he mention it in a recorded statement taken on May 3. The hearing officer commented in his Statement of the Evidence that he found the claimant's testimony regarding the groin "not . . . to be true." The hearing officer also commented generally that the claimant's "credibility was not perceived as very high."

The claimant sought medical treatment from Dr. CW on April 13 and when it turned out to be a workers' compensation case referred the claimant to Dr. AW, who diagnosed a low back sprain/strain, and took the claimant off work until April 22 when the claimant was released to restricted duty. In the meantime, the claimant sought treatment from the (Clinic), where he saw Dr. M, who took the claimant off work. Dr. M was replaced at Clinic by Dr. W, who, in a report dated October 4, comments on the low back and knee strains and seeks a consult from a specialist for the claimant's "bilateral testicle pain." The hearing officer interprets Dr. W's October 4 report as showing the "limiting factor for a

return to work" to be the testicle pain and that "[s]ince the testicle problem is not part of the compensable injury, I find that Claimant did not have disability after October 4, 2000."

The claimant's appeal contends that the various doctors have kept the claimant off work and the hearing officer's findings are against the great weight of the evidence on disability and the extent of the injury. 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). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ).

Upon review of the record submitted, we find no reversible error and we will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Susan M. Kelley
Appeals Judge