

APPEAL NO. 002857

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 21, 2000. With respect to the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury and that the claimant had disability as a result of his compensable injury on May 23, 2000, and from May 25, 2000, through the date of the hearing. In its appeal, the appellant (carrier) contends that the hearing officer's injury and disability determinations are against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury in the form of an occupational disease. The claimant had the burden to prove a causal connection between his employment and his reactive airway disease, by expert medical evidence to a reasonable medical probability. Texas Workers' Compensation Commission Appeal No. 93668, decided September 14, 1993. Conflicting evidence was presented at the hearing regarding this issue. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. As the fact finder, it was the hearing officer's responsibility to resolve the conflicts in the evidence and to determine what facts had been established by the evidence. The hearing officer accepted the claimant's evidence establishing the causal connection between his reactive airway disease and his exposure to chemicals at work over the contrary evidence from the carrier's expert witness. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier's challenge to the hearing officer's disability determination is premised upon the success of its argument that the claimant did not sustain a compensable injury. Given our affirmance of the injury determination, we likewise affirm the hearing officer's disability determination.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge