

APPEAL NO. 002859

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 16, 2000, a contested case hearing (CCH) was held. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and that the claimant has had disability from March 29, 2000, through the date of the CCH. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that on _____, she was performing her job duties as a delivery driver for the employer's automobile parts store when she injured her back lifting a heavy truck alternator from the passenger seat of the employer's delivery truck. Dr. J, an orthopedic surgeon who examined the claimant on referral from the claimant's treating doctor, Dr. P, testified that the claimant's has herniated lumbar discs as a result of lifting the alternator on _____. Dr. P has kept the claimant off work due to her lumbar injury.

There was conflicting evidence presented to the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolved the conflicting evidence in favor of the claimant and decided that the claimant sustained a compensable injury on _____, and that the claimant has had disability from March 29, 2000, through the date of the CCH. 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:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge