

APPEAL NO. 002887

Following a contested case hearing (CCH) held on November 14, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by finding that the appellant (claimant) did not sustain a compensable injury on _____, in the course and scope of employment with (employer) and therefore did not have disability as defined by the 1989 Act.

The claimant appeals and argues that the decision is against the great weight and preponderance of the evidence. The respondent (carrier) asks that the decision be affirmed.

DECISION

Affirmed.

The hearing officer did not err in holding that the claimant did not sustain an injury on _____, or have disability due to the injury. The parties introduced conflicting evidence regarding the occurrence of the claimant's injury and whether he had disability because of such injuries. Pursuant to Section 410.165(a) of the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. Further, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Ins. Co. of Newark, N.J., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Ins. Co. v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). This includes medical witnesses. This tribunal will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust; we do not find them so

here. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We affirm the hearing officer's decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge