APPEAL NO. 010052

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 December 14, 2000. The sole issue was disability, and the hearing officer found that the respondent (claimant) had disability for the period from March 27 through September 12, 2000.

The appellant (carrier) has appealed, arguing that the claimant actually worked light duty for months after her injury until taken off by a new doctor. The claimant responds by refuting facts stated in the appeal and asking that the decision be affirmed.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant had disability from the date that her doctor took her off work on March 27, 2000, until she was certified at maximum medical improvement on September 12, 2000. There was conflicting evidence as to whether the claimant was actually assigned to a light-duty job when she returned to work after her _____ injury. She said she was just put back on her old job. There was no dispute, however, that she was given only a light-duty release by the company doctor. When the claimant went to a doctor of her choice, she was taken off work entirely. A claimant's testimony alone may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.-Houston [1st Dist.] 1987, no writ).

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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.).

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the

evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here and affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Thomas A. Knapp
Appeals Judge