

APPEAL NO. 010178

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 8, 2001, a hearing was held, the hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury to his lumbar spine on \_\_\_\_\_, and that the claimant had disability from July 24, 2000, through the date of the hearing. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that his supervisor instructed him to work on Sunday, \_\_\_\_\_, and that while performing his janitor duties at work on that day he injured his lower back emptying a heavy trash barrel into a dumpster. The claimant said that he has been unable to work because of the back injury sustained at work on \_\_\_\_\_. The claimant began treating with Dr. R for his lower back injury on August 2, 2000, and Dr. R has taken the claimant off work. Conflicting evidence was presented to the hearing officer with regard to whether the claimant was instructed to work on Sunday, \_\_\_\_\_. The hearing officer found the claimant's testimony to be credible and resolved the conflicts in the evidence in favor of the claimant. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge