APPEAL NO. 010185

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 4, 2001. On the sole issue at the CCH, the hearing officer determined that the respondent (claimant) had disability beginning on February 17, 2000, and continuing to the date of the CCH.

The appellant (carrier) has appealed, essentially arguing that the claimant was not credible in any of his testimony. There is no response from the claimant.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant had disability for the period under review. The fact of a compensable injury on _____, was not disputed. The claimant was initially diagnosed with a lumbar and cervical strain and bruised sternum, and later with possible cervical radiculopathy. He was laid off by his employer three days after his injury and collected unemployment benefits for a period of time. A July 2000 MRI showed bulging at two cervical levels causing a flattening and displacement of the cord. The claimant testified that his doctor advised him to do no work. The arguments made by the carrier go to the hearing officer's assessment of credibility of the claimant.

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.). A claimant's testimony alone is sufficient to establish that an injury has caused disability. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). The Appeals Panel 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 and we do not find them so in this case. *See* 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:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge