

APPEAL NO. 010272

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on January 22, 2001. The hearing officer resolved the disputed issues by determining that the respondent's (claimant) compensable injury of _____, is a producing cause of his lower back pain and radiculopathy and that he did not have disability as a result of his compensable injury. The appellant (carrier) has requested review of the injury determination for the sufficiency of the evidence to support it. The claimant's response was returned for additional postage, was not timely filed, and is not considered on appeal. The disability determination has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, is a producing cause of his lower back pain and radiculopathy. The parties stipulated that the claimant sustained a compensable low back contusion on _____. The claimant testified that on that date, while detailing a car for his employer, he slipped off the metal bucket he was standing on to wash the top of the car, landed on his back on top of the bucket, and bent the edge of the bucket. The claimant stated that the employer sent him for treatment to the company doctor, Dr. C, and that Dr. C treated him for a low back contusion, did no diagnostic testing, and released him from care on February 22, 2000. He further stated that after his employment was terminated for cause on or about July 12, 2000, his attorney referred him to Dr. R, who provided chiropractic treatment; took him off work on July 18, 2000; and, after obtaining diagnostic testing, diagnosed lumbar disc herniation, lumbar radiculopathy, and myofasciitis. The carrier contended that the claimant had no medical treatment for his injury from February 22, 2000, until July 18, 2000, when he commenced treatment with Dr. R, and that his injury is limited to the contusion.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The Appeals Panel will not disturb a challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case.

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge