

APPEAL NO. 010289

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 26, 2001, a contested case hearing was held. On the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from _____, through the date of the hearing.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that he sustained damage or harm to the physical structure of the body, arising out of and in the course and scope of his employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. 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, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer did not err in determining that the claimant had disability from _____, through the date of the hearing. Disability is a question of fact to be determined by the hearing officer and may be based on the testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 000303, decided March 29, 2000. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge