

APPEAL NO. 010381

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 30, 2001, the hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable injury, whether in the form of an occupational disease or otherwise, on _____, or on any other relevant date, and that the claimant did not have disability. The claimant has appealed these determinations for evidentiary insufficiency. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The hearing officer did not err in finding that if the claimant has neck and shoulder problems, they are due to lifting bags while shopping and to being involved in a motor vehicle accident and not to her job duties; that she did not sustain a compensable injury, whether in the form of an occupational disease or otherwise, on _____; and that she has not been unable to obtain and retain employment at her preinjury wage because of a compensable injury of _____. The claimant testified that after approximately three weeks of performing grit blasting duties on airplane engine parts, a job which she and two coworkers, who served as witnesses, described in detail, she experienced severe pain in her right shoulder. She also stated that the shoulder pain she experienced after a March 1999 auto accident had resolved before commencing the grit blasting duties and she mentioned the pain she had from having lifted shopping bags. The carrier adduced evidence concerning the claimant's having received a written warning on January 14, 2000, for job deficiencies including not wanting to grit blast parts.

While the testimony of the claimant alone may be sufficient to prove a compensable injury, the hearing officer need not accept such testimony at face value. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, no writ). The testimony of the claimant, as an interested party, only raises an issue of fact for the hearing officer to resolve. Texas Employers Insurance Association v. Burrell, 564 S.W.2d 133 (Tex. Civ. App.-Beaumont 1978, writ ref'd n.r.e.). The hearing officer is the sole judge of the weight and credibility of the evidence, including the testimony of the claimant. Section 410.165(a). As the trier of fact, the hearing officer 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)). We are satisfied that the challenged findings are 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, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge