

## APPEAL NO. 010527

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 February 7, 2001. The hearing officer resolved the disputed issues by determining that the respondent's (claimant) compensable injury of \_\_\_\_\_, is a producing cause of his cervical and thoracic herniations but not his L1 fracture, and that the claimant did not have disability from May 10 through June 9, 2000. The appellant's (self-insured) request for review of the finding on the cervical and thoracic herniations stresses the delay in the onset of symptoms and documentation in the medical records. The claimant's response urges the sufficiency of the evidence to support the challenged determination.

### DECISION

Affirmed.

The claimant testified that on \_\_\_\_\_, while assisting with lifting an overcome coworker out of a manhole, the coworker was dropped on the claimant's head and back. The hearing officer's finding that the claimant's injury is not a producing cause of his L1 fracture has not been appealed. With regard to the March 30 injury being a producing cause of the claimed cervical and thoracic herniations, the evidence is in conflict. However, 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 was within his province in accepting the opinion of the claimant's treating doctor relating the \_\_\_\_\_, injury to the claimant's cervical and thoracic spinal problems. We are satisfied that the challenged finding 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, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge