

## APPEAL NO. 010650

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). In Texas Workers' Compensation Commission Appeal No. 002933, decided January 29, 2001, the Appeals Panel remanded the December 5, 2000, decision and order of officer the hearing officer for a full hearing on the merits of the disputed issues. Following a remand hearing held on February 15, 2001, the hearing officer resolved the two disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that he did not have disability. The claimant has appealed these determinations on evidentiary sufficiency grounds. The respondent (carrier) urges the sufficiency of the evidence to support an affirmance.

### DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on \_\_\_\_\_, and that he therefore did not have disability. The evidence was in substantial conflict with the claimant testifying that he injured his right arm and shoulder lifting hot water tanks or air conditioning units, and two supervisors testifying that, before his employment was terminated for refusing a drug screen test, the claimant had said he was not sure just how his arm was injured. 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)). We cannot say that the challenged findings are 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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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge