APPEAL NO. 010718

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 26, 2001. The hearing officer resolved the sole disputed issue by deciding that the appellant (claimant) had disability from the compensable injury only for the period of September 2, 1999, through September 16, 1999 (15 days). The claimant appealed, contending that he had disability from November 13, 1999, and continuing. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from the compensable lower back injury only for the period of September 2, 1999 through September 16, 1999. Section 401.011(16) provides that disability means the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage.

The parties stipulated that the claimant sustained a compensable injury to his low back on _____. The claimant had one doctor's visit with a chiropractor on September 7, 1999, and returned to work on September 17, 1999, to his regular duties as a mover. It is undisputed that due to the compensable injury, the claimant did not work from September 2, 1999, to September 16, 1999. On _____, while on a work assignment out of state, the claimant sustained a sudden onset of back pain and stopped working immediately. The claimant's _____, injury was treated by various doctors in December 1999, and May and June 2000.

The hearing officer determined that there was "insufficient medical evidence to show that the *subsequent period of disability is related to the injury of* _____." (Emphasis added.) We agree. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts 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 hearing officer could consider a number of factors, including the period of time after the alleged injuries during which the claimant had resumed his regular preinjury moving job. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge