

APPEAL NO. 010786

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 19, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable low back injury on _____.

The appellant (carrier) has appealed on sufficiency grounds. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was a foreman for the employer construction company. He testified that on _____, he injured his back while lifting a pipe. There was conflicting evidence regarding the cause of the claimant's low back injury. In her Statement of the Evidence, the hearing officer comments, "[c]laimant was credible in setting forth the mechanism of injury. The history of lifting was noted in the history given to [Dr. J] in the first report." There was sufficient evidence to support the hearing officer's decision.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong or unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. We do not find that to be so in this case.

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Judy L. S. Barnes
Appeals Judge