

APPEAL NO. 010797

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 initially scheduled for December 19, 2000; it was continued to January 19, 2001, and was then further continued to, and finally held on, February 27, 2001, the record closed on February 28, 2001. The hearing officer determined the issues of whether the appellant (claimant) sustained a compensable injury and whether there was disability adversely to the claimant. The claimant appealed the determinations on sufficiency of the evidence grounds. The respondent (carrier) submitted a response, urging that the hearing officer's determinations be affirmed.

DECISION

Affirmed.

Section 410.165(a) provides that 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 the evidence. It was for the hearing officer, as trier of fact, 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). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). This case was a credibility case, where the hearing officer determined from the conflicting evidence that the claimant did not meet his burden of proving by a preponderance of the evidence that he had sustained a compensable injury and that he had disability as a result of a compensable injury. The hearing officer's determination on the issues was 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 (Tex. 1986).

We affirm the decision and order of the hearing officer.

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Judy L. S. Barnes
Appeals Judge