

APPEAL NO. 010842
FILED JUNE 7, 2001

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 22, 2001. With regard to the issues before her, the hearing officer determined that the appellant (claimant herein) sustained a compensable injury on _____, and that the claimant had disability from November 24, 1998, to February 25, 1999, and from June 11, 1999, to July 11, 1999. The claimant appeals, requesting the Appeals Panel find he had disability from November 24, 1998, to September 9, 1999. The respondent (carrier herein) urges that there was sufficient evidence in the record to support the hearing officer's disability determination.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Disability is a question of fact to be determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of 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, 702 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

Applying this standard, we find sufficient evidence to support the hearing officer's finding of disability. While there was some evidence of a longer period of disability than that found by the hearing officer, the hearing officer was not required to be persuaded by this evidence and we do not find the great weight and preponderance of evidence contrary to the disability finding of the hearing officer.

The hearing officer's decision and order are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge