

APPEAL NO. 010866

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held in on March 20, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury on _____; that the claimant gave timely notice of her injury to her employer; that the claimant did not make an election to not pursue workers' compensation benefits; and that the claimant had disability from November 20, 2000, through the date of the CCH. The claimant appealed the hearing officer's decision on the disability issue, contending that she had disability prior to November 20, 2000. The respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant had disability from November 20, 2000, through the date of the CCH on March 20, 2001. Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Conflicting evidence was presented on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision on the disability issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge