

APPEAL NO. 010872

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 determined that the appellant's (claimant) compensable injury did not extend to the lumbar spine, cervical spine, or right shoulder and that the claimant did not have disability due to his compensable injury. The claimant has appealed the determinations on sufficiency of the evidence grounds. The respondent (self-insured) urges affirmance of the hearing officer's decision and order.

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 his compensable injury extended to his lumbar spine, cervical spine, or right shoulder, and that he had disability as a result of a compensable injury. The hearing officer's determinations on the issues were 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.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge