

APPEAL NO. 010930
FILED JUNE 4, 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 30, 2001. The hearing officer held that the appellant (claimant) did not sustain an injury on _____, and although unable to obtain and retain employment equivalent to his preinjury average weekly wage, did not have disability because of the lack of a compensable injury.

The claimant has appealed and argues that he believes the evidence requires reversal of the decision. The respondent (carrier) responds that the hearing officer's weighing of the facts and credibility of the evidence should be supported by the Appeals Panel.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant did not sustain an injury on _____. There was conflicting evidence between the testimony of witnesses and medical evidence, as well as evidence of other claims, from which the hearing officer could have concluded that no injury in fact occurred on the alleged date.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. 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 of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.).

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual

Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here, and affirm the hearing officer's decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge