

APPEAL NO. 010965
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 hearing was held on April 17, 2001. With respect to the issue before her, the hearing officer determined that the respondent (claimant) continues to suffer from the effects of a compensable injury sustained on _____. The appellant (carrier) argues on appeal that this determination is against the great weight and preponderance of the evidence. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Under the 1989 Act, the claimant has the burden of proving that he sustained a compensable injury and the extent of his injury. Texas Workers' Compensation Commission Appeal No. 950537, decided May 24, 1995. Whatever theory of liability is presented by a claimant, a carrier can defeat liability by establishing that the "sole cause" of the current medical condition is a subsequent, noncompensable injury. See Texas Workers' Compensation Commission Appeal No. 93864, decided November 10, 1993. Whether a claimant's medical problems reflect the continuing effects of a compensable injury or are solely caused by an intervening or subsequent event is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 92681, decided February 3, 1993.

The hearing officer is the sole judge of the weight and credibility to be given to the evidence and the relevance and materiality to assign to the evidence. Section 410.165(a). As the fact finder, the hearing officer is charged with the responsibility to resolve the conflicts in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer could believe all, none, or any part of any witness's testimony and could properly decide what weight she should assign to the other evidence before her. Campos. We will not substitute our judgment for the hearing officer's where her determinations are supported by sufficient evidence. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

In this case, the hearing officer made a determination that the claimant did not sustain a subsequent or intervening injury and that he continues to suffer from the effects of the compensable injury sustained on _____. In so doing, the hearing officer accepted the claimant's testimony relating to his back injury and considered the medical evidence, which included findings from an MRI performed on November 17, 2000. After considering this evidence and the other evidence in the record, we cannot agree that the hearing officer's determinations are against the great weight and preponderance of the evidence. The hearing officer's findings of fact are supported by sufficient evidence.

Nothing in our review of the record indicates that the hearing officer's determinations are clearly wrong or manifestly unjust. Therefore, we will not disturb this finding on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge