

APPEAL NO. 011017
FILED JUNE 14, 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 April 11, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury to her thoracic spine on _____. The appellant (carrier) appealed the hearing officer's determination on sufficiency grounds. No response was filed.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury to her thoracic spine on _____. The claimant had the burden to prove that she sustained damage or harm to her upper back on _____, arising out of and in the course and scope of her employment. See Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies 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 Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge