

APPEAL NO. 011060  
FILED JUNE 27, 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 (CCH) was opened on February 13, 2001, and concluded on May 1, 2001. The hearing officer determined that the respondent's (claimant) compensable injury of \_\_\_\_\_, included the cervical area, and that the claimant had disability from September 8, 1999, continuing to the date of the CCH. The appellant (carrier) has appealed these determinations on sufficiency of the evidence grounds. No response was submitted by the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on \_\_\_\_\_, which included the cervical area. The claimant had the burden to prove that he sustained damage or harm to his cervical area on \_\_\_\_\_, arising out of and in the course and scope of his employment. See Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was evidence presented to the hearing officer from which he could determine that the claimant had been consistently reporting that he had sustained a work-related injury to his neck. The hearing officer determined that the claimant was a credible witness, and there was evidence from which the hearing officer could determine that the claimant's allegations were sufficiently corroborated. 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 findings of a hearing officer unless they are 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).

In view of our decision above, the hearing officer did not err in determining that the claimant had disability from September 8, 1999, through the date of the hearing.

The decision and order of the hearing officer are affirmed.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge