

APPEAL NO. 011070
FILED JUNE 28, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on April 26, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on _____, and that she timely reported the injury to the appellant (self-insured employer). The self-insured employer appeals these determinations on sufficiency of the evidence grounds. The file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in making the appealed determinations. The claimant testified that on _____, while working as a school nurse, she assisted in lifting a teacher in respiratory crisis from a chair onto a low cot in the school nurse's office and then bent over and administered CPR for about 20 minutes until the teacher was removed by an ambulance crew. She further testified that about a week later she told her supervisor, Mr. C, that she hurt her back picking the teacher up that day. The claimant's medical records reflect that she sought treatment for her low back on _____, and was diagnosed with acute muscle strain. Mr. C and other school employees testified that they did not see the claimant lift the stricken teacher but did see her administer CPR. Dr. C wrote that he is an experienced emergency room physician and that a person who bends over to administer CPR for some time can sustain a back injury from that mechanism, particularly if they are deconditioned.

The appealed issues presented questions of fact for the hearing officer to resolve. 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 (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb the challenged factual determinations 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 them 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.

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge