

APPEAL NO. 011085
FILED JUNE 26, 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 23, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable neck and shoulder injury on _____, and had disability from January 23, 2001, through February 4, 2001. The appellant (carrier) appealed the compensability determination, but did not appeal the disability determination. That determination has become final (Section 410.169). There is a response from the claimant which is untimely, apparently due to being misaddressed. The claimant only expressed agreement with the hearing officer's decision and urged affirmance.

DECISION

Affirmed.

There was conflicting evidence presented at the hearing regarding the mechanism of the claimant's injury. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. The hearing officer's determination is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge