

APPEAL NO. 011177
FILED JULY 13, 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 May 8, 2001. With respect to the issues before him, the hearing officer determined that the respondent's (claimant) right wrist is part of the _____, compensable injury and that the claimant had disability, as a result of the compensable injury, from July 25 to October 23, 2000. In its appeal, the appellant (carrier) argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. The appeals file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The claimant in a workers' compensation case has the burden to prove by a preponderance of the evidence that he sustained a compensable injury and had disability. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Those issues presented questions of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Generally, injury and disability may be proven by the testimony of the claimant alone, if it is believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The carrier contends that the hearing officer's injury and disability determinations are against the great weight of the evidence. In so arguing, the carrier emphasized the same factors it had emphasized at the hearing. The significance, if any, of those factors was a matter left to the hearing officer in determining whether the claimant had sustained his burden of proving that she sustained an injury and had resulting disability. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his province as the fact finder in so doing. Our review of the record does not demonstrate that the challenged determinations are so contrary to the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse the injury or date-of-injury determinations on appeal. Cain; Pool.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge