APPEAL NO. 011178
FILED JULY 9, 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 1, 2001. The hearing officer determined that the appellant (claimant) sustained an injury in the course and scope of his employment but that it did not cause the inability to obtain and retain employment equivalent to his pre-injury average weekly wage (*i.e.* disability).

The claimant has appealed and argues that the injury resulted in disability. There is no response from the respondent (carrier).

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in his determination that the claimant's injury did not result in disability. The claimant said that he was injured on _____, when a chain-link fence that he was moving with assistance fell on him. There was evidence corroborating that he hurt his hand, but the existence of a back injury from this incident was in conflict. The claimant continued to work until discharged or laid off, after which he sought medical treatment. His doctor released him to work without restrictions on June 30, 2000. The claimant testified about an earlier work-related accident for which he was not asserting a claim, but which his medical records identified as having involvement in development of his back pain.

It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ).

In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the

evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We affirm the hearing officer's decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge