

APPEAL NO. 0 11205
FILED JULY 16, 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 10, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable injury on _____; that the compensable injury includes an injury to the claimant's right shoulder; and that she had disability, as a result of her compensable injury, from August 21 to August 30, 2000. In her appeal, the claimant argues that the hearing officer's determination that her disability ended on August 30, 2000, is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the injury and extent-of-injury determinations and they have, therefore, become final pursuant to Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not have disability after August 30, 2000. The disability issue presented a question 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 claimant contends that the hearing officer's disability determination is against the great weight of the evidence. The hearing officer resolved the conflicts and inconsistencies in the evidence concerning disability against 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 determination is 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 that determination on appeal. Cain; Pool.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge