

APPEAL NO. 011269
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 17, 2001. The hearing officer determined that (1) the respondent (claimant) sustained a compensable injury on _____; and (2) the claimant had disability from December 5, 1999, through April 4, 2000. The appellant (carrier) appeals the determinations on sufficiency grounds. The claimant urges affirmance.

DECISION

Affirmed.

Compensable Injury

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that she sustained damage or harm to the physical structure of her body, arising out of and in the course and scope of her employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. 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, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Disability

The hearing officer did not err in determining that the claimant had disability from December 5, 1999, through April 4, 2000. The carrier's challenge to the hearing officer's disability determination is premised upon the success of its argument that the claimant did not sustain a compensable injury. Given our affirmance of the injury determination, we likewise affirm the hearing officer's determination on disability.

The decision and order of the hearing officer are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge