APPEAL NO. 011339
FILED JULY 31, 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 (CCH) was held on May 23, 2001. The issues before the hearing officer were extent of injury and disability. With regard to these issues the hearing officer determined that the respondent/cross-appellant's (claimant herein) injury extends to an injury to the left elbow and left hip, but not to bilateral carpal tunnel syndrome (CTS) or to the cervical spine, and that the claimant had disability beginning on August 10, 1999, and continuing through July 24, 2000, but did not have disability at any time from July 25, 2000, though the date of the CCH. The appellant/cross-respondent (carrier herein) files a request for review arguing that the hearing officer's determination that the claimant's injury extended to his left elbow and left hip was contrary to the evidence. The carrier argues that the evidence showed that the claimant's injury was limited to an injury to his left shoulder. The claimant responds, pointing to evidence that his injury did include injuries to his left elbow and left hip. The claimant also files a request for review contending that the evidence showed that his injury included an injury to his cervical spine and both wrists, and that he had disability continuing through the date of the CCH. The carrier responds the evidence showed that the claimant's injury did not extend to CTS or to a cervical injury, and that the claimant did not have disability after July 24, 2000.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The hearing officer outlined the evidence and the rationale for his decision in his written decision. There was conflicting evidence as to the issues of extent of injury and disability. Both of these issues are issues of fact. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. 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). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and 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). Applying this standard we perceive no error on the part of the hearing officer. This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge