

APPEAL NO. 011441
FILED AUGUST 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 June 5, 2001. The hearing officer determined that (1) the respondent (claimant) sustained a compensable injury on _____; and (2) the claimant had disability from July 29, 2000, through the date of the hearing. The appellant (carrier) appeals the determinations on sufficiency grounds. No response was filed.

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 he sustained damage or harm to his right hand and cervical, thoracic, and lumbar spine, arising out of and in the course and scope of his 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 could believe the claimant's testimony and conclude from the medical evidence that the claimant sustained compensable injuries to his neck, back, and right ring finger. 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 July 29, 2000, through the date of the hearing. Disability is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 000303, decided March 29, 2000. The hearing officer could infer from the medical evidence and the claimant's testimony that the claimant had disability for the stated period. The hearing officer's disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The decision and order of the hearing officer are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge