

APPEAL NO. 011444
FILED JULY 27, 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 30, 2001. The hearing officer resolved the contested issues by determining that the respondent (claimant) sustained a compensable injury on _____, and that she had disability due to the compensable injury from _____, through May 30, 2001. The appellant (carrier) appeals the hearing officer's determinations concerning compensable injury and disability. The claimant urges affirmance.

DECISION

Affirmed.

The evidence sufficiently supports the hearing officer's determinations that the claimant sustained a compensable injury on _____, and that she had disability from _____, through May 30, 2001. Section 401.011(10) provides that a compensable injury is an injury that arises out of and in the course and scope of employment for which compensation is payable. Section 401.011(16) provides that disability means the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. The hearing officer was persuaded by the claimant's testimony and by the medical reports in evidence that the claimant had met her burden of proving both that the injury was compensable and that there was disability.

The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was not persuaded by the carrier's contention that the claimant sustained an injury in retaliation against the employer. The employer's representative testified that the claimant was not in immediate danger of losing her job at the time of the incident. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge