

APPEAL NO. 011446  
FILED JULY 25, 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 4, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that the claimant did not have disability resulting from the alleged injury. The claimant appeals, contending that the hearing officer's determinations are against the great weight and preponderance of the evidence. The respondent (carrier) responds urging affirmance.

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.

This case turns on the credibility of the claimant. This is an issue 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.

The claimant contends that there was evidence that he was injured and had disability. There was also evidence that he was not injured. For example, a surveillance film showed the claimant, among other things, coming down a flight of stairs and walking briskly toward his vehicle in no apparent pain or discomfort. In addition, there was evidence offered by the employer indicating that this was a spite claim because the employer would not meet the claimant's demands from the day before the alleged injury. It was the province of the hearing officer to resolve any conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The question under our standard of review was whether the hearing officer's determinations were 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, 176 (Tex. 1986). Applying this standard, we find sufficient evidence to support the hearing officer's decision.

The decision and order of the hearing officer are affirmed.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Michael B. McShane  
Appeals Judge