

APPEAL NO. 011575  
FILED AUGUST 17, 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 June 15, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable injury on \_\_\_\_\_ (all dates are 2001 unless otherwise noted); that the compensable injury extends to and includes the claimant's head, neck, right shoulder, and right upper back; and that the claimant had disability beginning on January 13 and continuing through February 15. There is no appeal of the injury and extent-of-injury issues, and the hearing officer's decision on those issues has become final pursuant to Section 410.169.

The claimant appeals the disability issue contending that he had disability until March 12, when the treating doctor released him to light duty and he returned to work under the doctor's restrictions. The respondent (carrier) responds, urging affirmance on the disability issue.

DECISION

Affirmed.

The claimant was employed as a "Triplex operator" and sustained a compensable injury on \_\_\_\_\_, when he raised up from working under a machine and "rammed" his head on a rail. The claimant went to a clinic recommended by the employer and subsequently began treating with Dr. W. It is undisputed that disability, as defined in Section 401.011(16), began on January 13. There are a number of progress reports in evidence from the clinic and Dr. W, but there was scant discussion on disability at the CCH. It is undisputed that the claimant returned to work in a light-duty capacity on March 12.

The hearing officer found that disability ended on February 15, when the claimant was seen by Dr. W, who noted that the claimant's neck and shoulder pain was gone and that the claimant "feels fine." Other subsequent reports, which keep the claimant off work, stress lumbar complaints, which are not part of the compensable injury. The claimant, in his appeal, contends that Dr. W's report "was just one day" and subsequent reports keep the claimant off duty.

We hold that the hearing officer's decision on the disputed issue was supported by sufficient evidence. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). 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 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.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge