APPEAL NO. 011614
FILED AUGUST 14, 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 14, 2001. The hearing officer determined that the compensable injury sustained by the appellant/cross-respondent (claimant) on _____, extends to and includes the right shoulder, rib cage, lumbar spine and hip; and that, as a result of the compensable injury, she had disability from June 9, 2000, through March 20, 2001. The claimant contends on appeal that the hearing officer's determination relating to disability is against the great weight and preponderance of the evidence, and urges that the decision be reversed and a new decision rendered adding an additional period of disability from April 25, 2001, through the date of the CCH. The respondent/cross-appellant (carrier) contends on appeal that those determinations that are favorable to the claimant are not supported by the evidence and are against the great weight and preponderance of the evidence. The claimant and the carrier both responded to the appeal submitted by the opposing party, urging affirmance with regard to the disputed issues.

DECISION

Affirmed.

The claimant had the burden to prove by a preponderance of the evidence that her compensable injury of June 6, 2000, extends to and includes the right shoulder, rib cage, lumbar spine, and hip. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented at the hearing regarding the extent of injuries sustained by the claimant on the date of injury. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. 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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). 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). We are

satisfied that the disputed findings relating to the extent-of-injury issue are sufficiently supported by the evidence.

The carrier further argues that the claimant "presented no medical evidence based on a reasonable medical probability that the physical problems complained of were caused by her _____, accident." There is testimony from the claimant connecting the accident to the claimed injuries. Generally, corroboration of an injury is not required and may be found based upon a claimant's testimony alone. Gee v. Liberty Mutual Fire Insurance Co., 765 S.W.2d 394 (Tex. 1989). Lay testimony is sufficient to establish causation where, based upon common knowledge, a fact finder could understand a causal connection between the employment and the injury, but expert testimony may be required where such common knowledge does not exist. Texas Workers' Compensation Commission Appeal No. 941464, decided January 9, 1995. The carrier argues that such expert testimony would be required to connect the compensable injury to the problems with the claimant's shoulder, rib cage, lumbar spine, and hip. However, the claimant testified that she did not have problems with her rib cage, shoulder, or hip prior to the accident, and had no recent problems with her lumbar spine. Further, it is common knowledge that the mechanism of injury to which the claimant testified could result in injury to the shoulder, ribs, and lumbar spine. Additionally, the record contains medical evidence substantiating injuries to the disputed body parts. We do not find that the challenged findings are contrary to the great weight and preponderance of the evidence. Cain *supra*.

"Disability" is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Disability is a question of fact to be determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. The claimant bears the burden of establishing that a compensable injury was a producing cause of her disability. Under the facts of this case, we do not perceive error in the hearing officer's resolution of the disability issue.

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge