APPEAL NO. 011709
FILED AUGUST 28, 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 21, 2001. The hearing officer determined that the appellant (claimant) sustained a compensable (right wrist and low back strain) injury on _____, but that she had no disability arising from that injury. The determinations on the injury issue have not been appealed and have become final pursuant to Section 410.169.

The claimant appeals the determinations on the disability issue, asserting that both her testimony and medical reports support a finding of disability.

DECISION

Affirmed.

The claimant testified that she slipped and fell in the employer's restroom, injuring her right wrist and low back on Thursday, November 30, 2000. The claimant finished her shift that day, worked the next day, Friday, December 1, 2000, and came to work on Monday, December 4, 2000. On Monday, December 4, 2000, the claimant was advised of a restructuring plan and that she was being laid off, at which time the claimant reported her injury. (The claimant said that she was given "a generous severance package.")

The claimant testified that she attempted to see her family doctor on December 4, 2000, but was unable to do so. The claimant testified that she went to a hospital emergency room (ER) on December 5, 2000, but no ER records were admitted in evidence. (An unsigned form report was excluded as not timely exchanged.) On December 27, 2000, the claimant saw Dr. B, who, in a report of that date, diagnosed a right wrist and low back strain injury and took the claimant off work. The claimant apparently saw Dr. B again on January 10, 2001, with essentially the same findings as his prior report.

The hearing officer, in her Statement of Evidence commented:

> I believe that [Claimant] sustained a right wrist strain/sprain and a lumbar strain/sprain in [her fall]. I do not believe that these problems have prevented her from working since December 4, 2000. There is little support in the medical records for compensable lost time due to these medical problems, and I do not believe that the Claimant was prevented from working. Had she not been terminated, I believe that she still would have been able to perform her assigned employment duties for the Employer while coping with pain resulting from these two (2) strain/sprain injuries, as she had between the date that she fell and the date that she was terminated.

This case largely rests on the credibility of the claimant. 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 hearing officer did not abuse her discretion in excluding the claimant's offered exhibit of the ER record. *See* Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE TRAVELER'S INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORP.**
**350 N. ST. PAUL ST.**
**DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge