

APPEAL NO. 011956
FILED SEPTEMBER 26, 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 July 23, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that he had disability from October 5, 2000, through the date of the hearing. In addition, the hearing officer determined that the claimant timely reported his injury to his employer so that the carrier was not relieved of liability pursuant to Section 409.002. In its appeal, the appellant (carrier) argues that the hearing officer's injury, notice, and disability determinations are against the great weight of the evidence. The claimant responds, urging affirmance.

DECISION

Affirmed.

The issues of whether the claimant sustained a compensable injury and whether he timely reported his injury to his employer were questions of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Generally, injury and disability may be proven by the testimony of the claimant alone, if it is believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The carrier contends that the hearing officer's injury and notice determinations are against the great weight of the evidence. In so arguing, the carrier emphasizes the same factors on appeal as it emphasized at the hearing. The significance, if any, of those factors was a matter left to the hearing officer in determining whether the claimant had sustained his burden of proving injury and timely notice. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his province as the fact finder in so doing. Our review of the record does not demonstrate that the challenged determinations are so contrary to the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse them on appeal. Cain; Pool.

The success of the carrier's disability challenge is dependent up the success of its argument that the claimant did not sustain a compensable injury. Given our affirmance of the injury determination, we likewise affirm the determination that the claimant had

disability from October 5, 2000, through the date of the hearing, July 23, 2001.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is:

**CT CORPORATION SYSTEMS
350 N. ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge