APPEAL NO. 012262
FILED OCTOBER 31, 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 August 21, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and he thus had no resultant disability. The claimant appeals on sufficiency grounds and requests that the decision and order of the hearing officer be reversed. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

There was sufficient evidence in the record to support the hearing officer's determination that the claimant did not sustain a compensable injury on _____. The claimant testified that he injured his back while moving a big-screen television (BSTV) at his employment on _____. The claimant introduced medical records from his doctor indicating an injury to his spine and taking him off work. The carrier introduced statements from coworkers and supervisors stating that the claimant had not moved a BSTV at the store, as one had not been delivered to the store on that date. In addition, the carrier presented witnesses, coworkers of the claimant's, who said that the claimant told them that he hurt his back while lifting weights at the gym. Further, the testimony presented indicated that the claimant was telling coworkers that he'd injured his back lifting weights prior to the alleged date of injury in this case. The witnesses who testified also claimed that the claimant had not helped to move a BSTV during the whole of his employment.

Whether the claimant has sustained a compensable injury is a factual issue for the hearing officer to decide. There was conflicting evidence submitted on the disputed issue. Section 410.165(a) provides that the 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 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

As we affirm the compensable injury conclusion, we also affirm the hearing officer's determination that the claimant did not have disability. Without sustaining a compensable injury, a claimant can not, as a matter of law, have disability. *See* Section 401.011(16).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **GENERAL INSURANCE COMPANY OF AMERICA (SAFECO)** and the address of its registered agent for service of process is:

LINDA LEWIS
1600 NORTH COLLINS BLVD., SUITE #300
RICHARDSON, TEXAS 75080.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge