

APPEAL NO. 012322
FILED NOVEMBER 9, 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 September 10, 2001. The hearing officer held that the compensable injury sustained on _____, by the appellant (claimant) did not extend to or include his left shoulder.

The claimant has appealed on sufficiency grounds and the respondent (carrier) has responded by requesting affirmance.

DECISION

Affirmed.

The hearing officer has fairly summarized the facts and we will not repeat the summary here. The hearing officer did not err in finding that the injury did not extend to the claimant's left shoulder, in that there is evidence supporting the inferences drawn by the hearing officer.

We would caution that while chronology alone does not establish a causal connection between an accident and a later-diagnosed injury (Texas Workers' Compensation Commission Appeal No. 94231, decided April 8, 1994), neither does a delayed manifestation nor the failure to immediately mention an injury to a health care provider necessarily rule out a connection. See Texas Employers Insurance Company v. Stephenson, 496 S.W.2d 184 (Tex. Civ. App.-Amarillo 1973, no writ). From the record in this case and the decision, however, it appears that the hearing officer evaluated other factors in addition to the mere failure of the earliest records to note a shoulder injury.

The 1989 Act makes the hearing officer the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The hearing officer's decision is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer's decision and order are affirmed.

According to the document filed by the carrier at the CCH, the true corporate name of the insurance carrier is **ZENITH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JEFFREY AUTREY
ROAN & AUTREY
400 WEST 15TH STREET
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Philip F. O'Neill
Appeals Judge