APPEAL NO. 012329
FILED NOVEMBER 12, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on April 24 and June 26, 2001, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not thereafter have disability. In Texas Workers' Compensation Commission Appeal No. 011663, decided August 30, 2001, the Appeals Panel remanded for the hearing officer to obtain for the record certain required information about the respondent (self-insured employer) in this case. The hearing officer has complied with the remand instructions and has issued his Decision and Order on Remand containing the same findings and conclusions as did his original Decision and Order. The claimant has requested our review on evidentiary sufficiency grounds. The self-insured employer has filed a response urging the sufficiency of the evidence to warrant our affirmance.

DECISION

Affirmed.

The claimant testified that in October 1996 he sustained a work-related low back injury for which he received a 14% impairment rating; that he thereafter continued seeing his treating doctor, Dr. N, who prescribed medication for this injury and who, at one point, recommended that he consult a surgeon; and that he sustained a new low back injury on _____, when, while working as an assembler, he dropped a tool on the line and bent over to pick it up. The claimant further stated that Dr. N advised him that his _____, injury was indeed a new injury because it resulted in a different pain pattern. The claimant also stated that he reinjured his back in _____ but that he cannot explain how that new injury differs from the new claimed injury of _____. Dr. N's records reflect that the claimant saw him as recently as April 3 and May 8, 2000, for low back spasm and pain. Dr. N's June 2, 2000, record states that the claimant's low back pain has "flared again" on _____, and was "more bothersome than usual." This record did not mention an incident involving the picking up of a tool. Dr. N wrote on April 4, 2001, that in his opinion, based on a comparison of an August 12, 1999, MRI with an October 23, 2000, MRI, the claimant sustained a new injury on _____. Dr. W, who reviewed the claimant's medical records, reported on July 12, 2000, that it was his opinion that "the episode on _____ was merely a continuation of a preexisting problem." Dr. G, who was asked by the Texas Workers' Compensation Commission to review the claimant's medical records and opine on whether the claimant sustained a new injury on _____, reported on _____, that in his opinion neither the medical records nor the mechanism of injury support the claim of a new injury.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence Texas Employers Insurance Association v.

Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel, an appellate reviewing tribunal, will not disturb the challenged factual determinations 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. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986), In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

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

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge