APPEAL NO. 012350
FILED NOVEMBER 15, 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 4, 2001. The respondent (claimant) did not personally appear at the hearing, but was represented by his attorney. The appellant (carrier) appeals the hearing officer's determination that the claimant sustained a closed head injury as a result of the compensable injury of _____. The carrier argues that the hearing officer's determination in Finding of Fact No. 4 that the claimant sustained various compensable injuries is vague and that Finding of Fact No. 6 is against the great weight and preponderance of the evidence. The claimant responded, and urges affirmance.

DECISION

Affirmed.

As to the allegation that Finding of Fact No. 4 is vague, we note that the parties agreed on the record that the carrier accepted that the claimant sustained injuries to his left shoulder, left arm, bruised ribs, low back, and neck. Read together with the subsequent finding that a closed head trauma injury was also sustained by the claimant, we do not view this as vague in any way, and we reject this argument.

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 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 hearing officer had medical records which demonstrate that the claimant "probably had a closed head injury, but the nature and extent of the injury have not been determined because sufficient testing has not been done." We construe this decision by the hearing officer as not deciding whether post concussion syndrome and post traumatic brain injury are included in the compensable injury, subject to further testing. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

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

C. T. CORPORATION SYSTEM
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge