

APPEAL NO. 012467
FILED NOVEMBER 28, 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 (CCH) was held on September 19, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that she had disability beginning on February 2, 2001, and continuing through the date of the CCH. The appellant (carrier) appeals on sufficiency of the evidence grounds. The claimant replied to the appeal, and urges affirmance.

DECISION

Affirmed.

There was considerable conflict in the evidence presented at the hearing regarding whether the claimant sustained a compensable injury. The claimant testified how and when the injury occurred, and that she had made an immediate report of the injury. The employer testified to the effect that the claimant had fabricated the circumstances of the injury so that she could get treatment for her preexisting back problems under the employer's workers' compensation coverage. The hearing officer determined that the claimant was a credible witness whose testimony was consistent with the medical evidence and the mechanism of injury.

This was a classic credibility contest, and the hearing officer was exercising his discretion in evaluating the evidence. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when his determinations are not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. The hearing officer's determinations are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The decision and order of the hearing officer are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge