APPEAL NO. 012479
FILED NOVEMBER 26, 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 17, 2001. The hearing officer held that the appellant (claimant) was compensably injured on _____, and that he did not work as a result of the compensable injury from April 30 through May 4, 2001. However, she made a conclusion of law that the claimant did not have disability resulting from his injury.

The claimant appeals the fact finding that his inability to work beginning May 8 was not the result of any injury he sustained while working for the employer. The respondent (carrier) responds that the decision is correct.

DECISION

We affirm the decision upon the sole issue appealed.

All dates are 2001 unless otherwise stated. The hearing officer did not err in finding that the claimant did not have disability beginning on May 8. As noted, he had reported for work on May 7 and worked his regular duty until the employer discovered he had only a light-duty release. The claimant did not want to perform light-duty janitorial work; the next day, he met with his treating doctor, who took him completely off work. At the outset, we would note that there appears to be a contradiction between the findings of fact (which may be read as approving some period of time prior to May 8 that the claimant was unable to work due to his injury) and the conclusion of law that the claimant had no disability. However, the claimant's appeal is limited to the period beginning May 8 when the claimant was taken entirely off work by his treating doctor, after reporting the day before and beginning his usual work. There was conflicting evidence concerning the claimant's ability to work as well as the fact that the claimant actually worked his regular job. There was medical evidence indicative of a lumbar sprain that did not cause great functional incapacity.

The matters at hand involved the hearing officer's unique abilities to hear and observe the testimony of the witnesses and weigh the credibility of the evidence. The record shows that the hearing officer was active in seeking to have the record fully developed in order to resolve the issues. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's

determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here, and affirm the decision and order.

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

C.T. CORPORATION SYSTEMS
350 N. ST. PAUL, SUITE 2900
DALLAS, TEXAS 75202.

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge