

APPEAL NO. 012565
FILED NOVEMBER 21, 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 24, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and thus did not have disability. The claimant appeals on sufficiency grounds and seeks reversal. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant testified that while performing her job duties, she injured her back when she was lifting a package on _____¹. The claimant said she was in "excruciating pain," but did not seek medical attention at the company medical facility until May 29, when she was diagnosed with abdominal problems. On the same day, the claimant went to an emergency room where she was diagnosed with back strain. The hearing officer commented that the claimant did not offer a credible explanation for her failure to seek medical treatment for two weeks despite the "excruciating" pain. The parties agreed that this was a credibility case. The hearing officer commented that the claimant was not a credible witness.

There was conflicting evidence submitted on the disputed issues. 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 of 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 trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). This is so even though another fact finder might have drawn other inferences and reached different conclusion. Salazar, et al. V. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). Nothing in our review of the record indicates that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

Because we affirm the hearing officer's compensability determination, we also affirm his disability conclusion. By definition, if the claimant did not sustain a compensable injury, she had no resultant disability. Section 401.011(16) of the 1989 Act.

¹Except where otherwise indicated, the year referenced is 2001.

Accordingly, the hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge