

APPEAL NO. 012583
FILED NOVEMBER 29, 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 October 1, 2001. The appellant (carrier) appeals the hearing officer's determinations that the respondent (claimant) sustained a compensable back injury on _____, and that the claimant has disability from the compensable injury beginning on June 4, 2001 and continuing through the date of the CCH. The claimant responds urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in finding that the claimant injured his back on _____, while pulling a truck door closed. The conflict centered around whether the claimant had been driving the type of truck that required manual closing of the door as opposed to hydraulic closing. The hearing officer evidently chose to believe that the claimant was closing the door manually when injured. She noted that a preemployment physical for another job, done the month before, was evidence that the claimant did not then have his back injury. The claimant said that he was unable to accept the other job or perform his duties for the employer due to the injury.

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. A claimant's testimony alone may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.-Houston [1st Dist.] 1987, 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.). When reviewing a hearing officer's decision for factual sufficiency of the evidence we will reverse the decision only if it is so contrary to 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 Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer on injury or disability.

The decision and order of the hearing officer 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 SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge