

APPEAL NO. 020019  
FILED FEBRUARY 7, 2002

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 012445, decided November 13, 2001, where we remanded the case for the required carrier information. That information was placed in the record and forwarded to the respondent (claimant). No hearing on remand was held, and the hearing officer reissued her prior decision and order without substantive modification. With respect to the single issue before her, the hearing officer determined that the claimant had disability, as a result of her compensable injury, from \_\_\_\_\_ to \_\_\_\_\_, and from November 21, 2000, to August 6, 2001. In its appeal, the appellant (carrier) argues that the hearing officer's disability determination is against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The issues of whether the claimant had disability and, if so, for what periods were questions of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Generally, injury and disability may be proven by the testimony of the claimant alone, if it is believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly 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).

The carrier challenges the hearing officer's determinations that the claimant had disability, as a result of her \_\_\_\_\_, compensable injury, from \_\_\_\_\_ to \_\_\_\_\_, and from November 21, 2000, to August 6, 2001. We find no merit in the carrier's challenge to the \_\_\_\_\_ to \_\_\_\_\_, period of disability in that the parties stipulated that the claimant had disability during that period. Transcript, p. 21. In challenging the period of disability from November 21, 2000, to August 6, 2001, the carrier emphasizes the same factors on appeal as it emphasized at the hearing. The significance, if any, of those factors was a matter left to the hearing officer in determining whether the claimant had sustained her burden of proving that she had disability for the challenged period. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant, and she was acting within her province as the fact finder in so doing. The November 21, 2000, to August 6, 2001, period of disability is supported by the claimant's testimony and the medical evidence from her treating doctor at that time. Our review of the record does not demonstrate that the second period of disability found by the

hearing officer is so contrary to the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse the determination that the claimant had disability from November 21, 2000, to August 6, 2001, on appeal. Cain, *supra*; Pool, *supra*.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**TIM KELLY  
AIG  
675 BERING, 3<sup>RD</sup> FLOOR  
HOUSTON, TEXAS 77057.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Robert W. Potts  
Appeals Judge