APPEAL NO. 020066
FILED FEBRUARY 5, 2002

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 December 13, 2001. The hearing officer determined that the appellant (claimant) did not prove through a preponderance of the evidence that she was injured at work or had disability from a work-related injury.

The claimant has appealed this decision as against the great weight and preponderance of the evidence. The claimant argues that hearsay signed statements should be given less weight than live testimony. The respondent (carrier) responds that the decision should be affirmed.

DECISION

We affirm the hearing officer's decision.

The hearing officer has fairly summarized the evidence. The claimant contended that she hurt her back on _____, in the course of picking up several grates over a five or six hour period. There was conflicting evidence as to the occurrence and reporting of this purported injury, as well as what occurred in the days following this injury. The initial medical evidence indicated that the claimant was treated for an illness, not a work-related injury. There were written statements from the coworkers of the claimant that questioned whether an injury even occurred. The claimant worked for most of the days following her injury and said she could have returned had she not been terminated a few days later.

A trier of fact is not required to accept a claimant's testimony at face value, even if not specifically contradicted by other evidence. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, 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 hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing, including hearsay evidence admissible in these proceedings. Section 410.165(a). 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, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). We cannot agree with the claimant's assertion that a date of injury put on a Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) as a ministerial function is somehow an admission against interest as to occurrence of an injury, especially when the substance of the reasons for disputing the claim contend that a work-related injury has not occurred.

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.). There is sufficient support for the hearing officer's decision on injury and disability, which is not against the great weight and preponderance of the evidence; thus, we affirm the decision and order.

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

JAVIER MARTINEZ
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SUITE 131, PMB #113
AUSTIN, TEXAS 78745

Susan M. Kelley
Appeals Judge

CONCUR:

Terri Kay Oliver
Appeals Judge

Robert W. Potts
Appeals Judge