APPEAL NO. 020583
FILED APRIL 30, 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 February 12, 2002. With respect to the issue before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____. In its appeal, the appellant (carrier) argues that the hearing officer's decision is against the great weight of the evidence. The carrier also argues that the hearing officer's decision is "directly contrary to prior Appeals Panel holdings." In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. That issue presented a question of fact for the hearing officer. The hearing officer determined that the claimant's account of his injury was credible. 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 the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to decide what facts the evidence established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer's injury determination is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier also argues that the hearing officer misapplied the law in that his decision is contrary to prior Appeals Panel decisions. The carrier did not cite those cases in its appeal; however, at the hearing, it cited Texas Workers' Compensation Commission Appeal No. 972235, decided December 17, 1997, and Texas Workers' Compensation Commission Appeal No. 980631, decided May 14, 1998. Thus, we believe that those are the cases which the carrier believes the hearing officer erred in not following here. We cannot agree that those cases necessitate a reversal in this instance. Initially, we note, as did the hearing officer, that the facts in this case are distinguishable from those cases and, accordingly, they would not be controlling here. However, we further note that in Texas Workers' Compensation Commission Appeal No. 990252, decided March 25, 1999, the continuing viability of Appeal Nos. 972235 and 980631 was called into question. *See also* Texas Workers' Compensation Commission Appeal No. 012376-s, decided November 14, 2001 (rejecting the principle argued by the carrier herein).

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

ROBERT PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge