

APPEAL NO. 020869
FILED MAY 28, 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 March 25, 2002. She found that the appellant (claimant) sustained an injury on _____, and that although he did not give timely notice of his injury to his employer, he had good cause. Neither finding was appealed. The hearing officer also found, however, that the injury did not result in an inability to obtain and retain employment equivalent to the preinjury average weekly wage (disability). The claimant has appealed this finding and the respondent (carrier) responds that the decision was correct.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in holding that the claimant did not have disability resulting from his injury. He worked until sometime in mid-December, and stated that it was around this time that he found out that there was to be a reduction in force in January 2002. In weighing all the evidence, the hearing officer indicated that she believed it more likely than not that the injury was not a factor in the claimant's nonworking status.

The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve.

In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

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

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge