

APPEAL NO. 021263  
FILED JUNE 27, 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 April 24, 2002. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of \_\_\_\_\_, and did not have disability. On appeal, the claimant contends that these determinations are against the great weight and preponderance of the evidence. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant complains, without explaining how it resulted in an erroneous decision, that the carrier failed to disclose an interview it had in its possession. However, the witness whose statement was allegedly not disclosed actually testified. The failure to timely disclose a statement that may exist where exchange is required will preclude use by the carrier of that statement in a future proceeding, Section 410.161, but there is otherwise no sanction in the 1989 Act for failure to disclose. We cannot assign error in not producing a statement for a witness who offers live testimony.

Concerning the alleged repetitive trauma injury, whether the claimant sustained a compensable injury and had disability are factual questions for the hearing officer to resolve. 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. 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 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such 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 decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

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

**C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Robert W. Potts  
Appeals Judge