APPEAL NO. 021450
FILED JULY 15, 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 (CCH) was held on May 22, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury; that the claimant had disability as a result of the compensable injury from August 21 through November 16, 1999, from June 1 through July 22, 2001, and from September 22, 2001, through the date of the CCH; that the date of the compensable injury was _____; that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant did timely notify the employer of the injury pursuant to Section 409.001; and that the carrier did not waive the right to dispute the issue of timely notice to the employer. The carrier appeals the first four determinations, asserting that those determinations are against the great weight and preponderance of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

There was conflicting evidence presented on the factual questions of whether the claimant had a compensable injury, whether there was disability, what the date of injury was, and whether the claimant timely reported an injury to his employer. The carrier asserts that the evidence shows that the claimant was not credible, in light of a history of criminal convictions.

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 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). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, 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). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its 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). 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 factual findings of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

_____
Michael B. McShane
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Roy L. Warren
Appeals Judge