APPEAL NO. 022814
FILED DECEMBER 16, 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 October 7, 2002. With respect to the issues before him, the hearing officer determined that, after February 12, 2002, the appellant (claimant) did not continue to suffer from the effects of the _____, compensable injury, and that the claimant did not have disability as a result of the compensable injury. In her appeal, the claimant argues that the evidence was not sufficient to support the hearing officer's determinations against her. The respondent (carrier) urged that the hearing officer be affirmed in its response.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable (right arm) injury on _____. The claimant argued that she injured not only her right arm, but also her back, when she tripped over one or more electrical cords while at work. The claimant testified that the back pain came on later than the right arm/wrist/elbow pain. The claimant presented medical records showing that some doctors diagnosed the claimant with a back injury, as well as right upper extremity injuries. Conversely, the carrier presented testimony and evidence to the effect that the claimant only mildly injured her right arm in her fall and that the rest of her injuries, if any, came as the result of a motor vehicle accident (MVA) occurring on February 12, 2002. The carrier presented the medical records from the hospital showing the claimant's treatment after the MVA that indicate that the claimant complained of chest, neck, and back pain. The carrier also presented testimony from two of the claimant's coworkers who said that the claimant complained of only an arm injury prior to the MVA. The hearing officer found the carrier's witnesses credible, and the claimant neither credible nor persuasive.

The hearing officer found that the inability of the claimant to obtain or retain employment at wages equivalent to her preinjury wages, from February 13, 2002, through the date of the hearing, was the result of something other than her compensable injury, to wit, her MVA of February 12, 2002. *See* Section 401.011(16).

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, 702 (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). 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 overwhelming weight 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). We do not find so here.

The decision and order of the hearing officer are affirmed.

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

MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Margaret L. Turner
Appeals Judge