APPEAL NO. 030136
FILED FEBRUARY 26, 2003

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 December 2, 2002. The hearing officer determined that the respondent's (claimant) _____, compensable injury does not extend to or include complex regional pain syndrome/reflex sympathetic dystrophy; that the claimant's proper impairment rating (IR) is 0%; and that the claimant is not entitled to supplemental income benefits (SIBs) for the 1st, 2nd, or 3rd quarters. The claimant appealed all of the above determinations on sufficiency of the evidence grounds, and asserted evidentiary error. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We first address the claimant's evidentiary objection. The claimant asserts that the hearing officer erred in failing to admit photographs she offered into evidence. To obtain a reversal on the basis of admission or exclusion of evidence, it must be shown that the ruling admitting or excluding the evidence was error and that error was reasonably calculated to cause and probably did cause rendition of an improper judgment. Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). It has also been stated that reversible error is not ordinarily shown in connection with rulings on questions of evidence unless the whole case turns on the particular evidence admitted or excluded. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We conclude that the claimant has not shown that the error, if any, in the exclusion of the complained-of evidence amounted to reversible error.

We next turn to the hearing officer's determination that the claimant's _____, compensable injury does not extend to or include complex regional pain syndrome/reflex sympathetic dystrophy. The claimant offered substantial evidence to support her position that her compensable injury does in fact extend to and include the above-referenced conditions. The carrier offered evidence to the contrary. The claimant had the burden to prove that her compensable injury extends to and includes the complained-of conditions. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by the testimony (or evidence) of a medical witness where the credibility of that testimony

(or evidence) is manifestly dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate-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. When reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Appeal No. 950084, *supra*. Under our standard of review, we conclude that the hearing officer's findings, conclusions, and decision are supported by sufficient evidence and that they are not 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). This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar, *et al*. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

Finally, we find that the hearing officer did not err in determining that the claimant's IR is 0% and that she is not entitled to SIBs for the 1st, 2nd, or 3rd quarters. The Texas Workers' Compensation Commission-selected designated doctor in this case determined that if the claimant's compensable injury does not extend to or include complex regional pain syndrome/reflex sympathetic dystrophy, her IR is 0%. Because we have affirmed the hearing officer's determination that the claimant's compensable injury does not extend to or include the above conditions, we find that the hearing officer did not err in determining that the claimant's IR is 0% pursuant to the designated doctor's certification. Additionally, since the claimant failed to establish that she had an IR of 15% or greater, she is not entitled to SIBs as a matter of law. Section 408.142.

The hearing officer's decision and order 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.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Michael B. McShane
Appeals Panel
Manager/Judge