APPEAL NO. 030289
FILED MARCH 7, 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 (CCH) was held on December 3, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable low back injury on _____; that the claimant gave timely notice of his injury to the employer; and that the claimant had disability from May 24, 2002, and continuing to the date of the CCH.

The appellant (self-insured) appealed all the disputed issues, contending that the medical evidence is insufficient to prove causation of an injury, emphasizing contradictory evidence, and attacking the claimant's credibility. The claimant responds, urging affirmance.

DECISION

Affirmed.

This case turns strictly on which version of events one chooses to believe. The claimant, a maintenance worker for the self-insured, testified that on _____, he injured his back pulling a heavy fire hose while working a grass fire. The claimant testified that he reported his injury to his supervisor AG during the noon lunch break on _____. The claimant said he saw some doctors, but that his back got progressively worse until May 24, 2002, when it got so bad that he could hardly walk. The claimant has been diagnosed with a lumbar strain/sprain and possible herniated nucleus pulposus. The claimant has not worked since May 24, 2002.

The self-insured's version is that the claimant did not sustain an injury on _____, (or that _____, is even the date of injury) and that the claimant only told AG sometime in April that he "felt bad." The self-insured contends that notice of a work-related injury was not given to the self-insured employer until June 10, 2002, when the self-insured employer's coordinator asked the claimant if he had been hurt at work.

In any event, the testimony of the witnesses was conflicting. We have frequently noted that issues of injury and disability can be established by the claimant's testimony alone if believed by the hearing officer. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). The hearing officer can 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). The hearing officer obviously believed the claimant's version and it is the hearing officer, who is the sole judge of the weight and credibility that is to be given to the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our

judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

SV
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Daniel R. Barry
Appeals Judge