APPEAL NO. 031314
FILED JULY 8, 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 April 22, 2002. As to the sole issue before him, the hearing officer determined that the respondent (claimant) sustained disability beginning on December 27, 2000, and continuing through October 9, 2002, as a result of his _____, compensable injury.

The appellant (self-insured) appealed on sufficiency of the evidence grounds, emphasized that the disputed disability period did not begin until six months after the injury, and asserted that the hearing officer erred because he failed to make specific findings of fact and failed to determine the exact nature of the claimant's compensable injury. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable lumbar injury on _____. The claimant testified that the injury occurred while he was trying to move a vending machine with a dolly. While moving the machine, the dolly "failed" causing the machine to fall on the claimant, pinning him to the ground. The claimant testified that although he experienced pain, he did not seek immediate medical treatment out of fear for his job and continued to work through the pain. The claimant testified that on December 23, 2000, while at home, he reached for a book and felt excruciating pain. It was at this point that the claimant finally sought out medical treatment. The record reflects that subsequently the claimant has been given "restricted duty" releases, but the claimant testified that the self-insured did not have any light-duty work available and he is unable to perform his regular duties due to his lumbar injury. One of the medical records in evidence indicates that it has been suggested to the claimant that he change careers.

The self-insured contends that the hearing officer failed to make specific and necessary findings of fact and that these omissions necessitate remanding the case. We do not agree. In support of its position, the self-insured cites Texas Workers' Compensation Commission Appeal No. 990092, decided February 10, 1999, wherein the hearing officer made a finding of fact relating to disability which was described as a "single conclusory finding" without "underlying facts, particularly regarding the extensive medical evidence" showing treatment results for a compensable back injury. In the case we now consider, the evidence establishes that the self-insured accepted a compensable injury in the form of a lumbar injury, and the claimant presented testimony and medical documentation to support his alleged period of disability. These facts, combined with the hearing officer's explanation in the Statement of the Evidence,

makes clear which evidence the hearing officer relied upon in establishing a causal connection between the compensable injury and the claimant's disability. Under these circumstances, Appeal No. 990092 is not considered controlling. The self-insured knew the sole disputed issue was disability. Had the self-insured desired to raise the issue of extent of injury, that is to say the exact nature of the accepted injury, it was incumbent upon them to properly bring the issue forward prior to the hearing, not for the first time on appeal.

We have reviewed the complained-of determination and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The disputed issue of disability and the six-month delay in seeking medical treatment presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

For service in person the address is:

RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.

For service by mail the address is:

RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Edward Vilano
Appeals Judge