

APPEAL NO. 031601  
FILED JULY 31, 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 May 13, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and did not have disability. The claimant appeals these determinations. The respondent (carrier) urges affirmance

DECISION

Affirmed.

Whether the claimant sustained a compensable injury and had disability were factual determinations for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We next address the claimant's complaint on appeal regarding the portion of the hearing officer's Statement of the Evidence wherein she notes that "[a]ccording to the [c]laimant, he did not speak or understand English; however, it was apparent from his testimony and that of [another witness] that the [c]laimant spoke English well. This misrepresentation confirmed his lack of credibility on other facts." We agree with the claimant that this statement is inaccurate in that the claimant never testified that he could not speak or understand English. To the contrary, the claimant testified that he doesn't "know much English." He further explained that he was able to communicate in English with his boss and medical professionals to a certain degree. Although the hearing officer's statement is inaccurate, we do not find that it rises to the level of reversible error because the hearing officer explained that in making her decision, she considered the fact that the claimant's testimony was inconsistent and that other evidence showed that he may have sustained a back injury prior to coming to work on the date in question. There was testimony from another witness that the claimant was limping when he arrived at work on the day of the alleged injury and that the claimant indicated to that witness that he had been hurt at home.

The decision and order of the hearing officer are affirmed.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge