

APPEAL NO. 032091
FILED OCTOBER 1, 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 July 8, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and had disability beginning on November 8, 2002, and continuing through the date of the CCH. The appellant (carrier) appealed, arguing that the determinations are so contrary to the great weight of the evidence as to be manifestly wrong and unjust. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Whether the claimant sustained a compensable injury and had disability are factual questions 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The carrier contends that the hearing officer failed to recognize the significance of the medical records prior to the alleged date of injury and did not require proof that there was any difference between the claimant's condition before the claimed date of injury, and his condition afterwards. The hearing officer noted that the claimant testified that although his symptoms after the motor vehicle accident (MVA) of _____, were similar to his condition prior to the MVA of _____, his pain was greater, his back worse, and he had a right knee injury. A claimant's testimony alone may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.-Houston [1st Dist.] 1987, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

We find no merit in the carrier's contention that the hearing officer either overlooked or chose to ignore blatantly contradictory and outwardly deceptive medical evidence or that he mischaracterized certain evidence in order to arrive at favorable conclusions for the claimant. Nothing in our review of the evidence indicates that the hearing officer did not consider all of the evidence before him.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge