

APPEAL NO. 033347
FILED FEBRUARY 18, 2004

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 3, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and had disability for the period beginning on August 6 and continuing through October 15, 2003. The appellant (self-insured) appealed, arguing that the determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant, a bus driver, testified that he was injured when he went over a stretch of rough road and was bounced up and down in his seat causing him to injure his low back, neck, and right shoulder. The self-insured contends that the hearing officer's assessment that the "claimant's testimony was plausible, reasonably consistent with most of the evidence, and credible" was inaccurate. Conflicting evidence was presented on the disputed issues. The determinations involved questions of fact 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)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations 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).

The self-insured additionally argues that driving over a rough stretch of road is nothing out of the ordinary and is something the general public is exposed to on a daily basis. We note that this is a case where the claimant contended he was injured as a result of a specific incident which occurred in the course and scope of his employment not an occupational disease. See *also* Texas Workers' Compensation Commission Appeal No. 012376-s, decided November 14, 2001 (rejecting the principle argued by the carrier herein).

We affirm the decision and order of the hearing officer.

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

**JG
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge