

APPEAL NO. 040772
FILED MAY 24, 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 March 11, 2004. The hearing officer determined that the appellant (carrier) is not relieved of liability for supplemental income benefits (SIBs) for the sixth quarter because the respondent (claimant) timely filed her Application for [SIBs] (TWCC-52) for the sixth quarter. The parties stipulated that the claimant is entitled to SIBs for the sixth quarter if the carrier is found liable for SIBs for the sixth quarter. The carrier appeals the determination of carrier liability for SIBs on sufficiency of the evidence grounds, asserting that the claimant's "testimony is based upon hearsay without any collaborating evidence." The claimant responds, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determination. The determination that the claimant timely filed her TWCC-52 involved a question 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)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.- Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Regarding whether the hearing officer improperly considered hearsay, we note that strict adherence to the rules of evidence is not necessary at hearings before the Texas Workers' Compensation Commission. Section 410.165(b). As an appellate-reviewing tribunal, 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 and we do not find them so in this case. 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 affirm the decision and order of the hearing officer.

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

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge