APPEAL NO. 990847

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 25, 1999. She determined that the appellant (claimant) did not sustain a compensable injury in the course and scope of his employment and that he did not have disability. Claimant appeals these determinations on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm, as reformed.

Claimant first contends the hearing officer erred in determining that he did not sustain a compensable injury. The applicable law and our appellate standard of review are set forth in Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); Section 401.011(26); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); and Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that he began to experience continuing shoulder and arm pain and numbness, and that he saw a doctor on October 15, 1998. He said the doctor asked him to recall any event which might have caused the condition and he recalled an event where he drove over rough a road on _____. Claimant said he was driving his work truck on a delivery in (City 1), Texas, that he hit a rough road and was thrown around the truck cab, and that his shoulder began to feel stiff and painful by the time he arrived at the location where he was to unload the truck. Claimant said he was unable to drive home for two days. He testified that there was no damage to his truck and that he did not request that the cargo be inspected. Claimant said he did not report his problems when he arrived to unload and that he did not mention them to his supervisor. Claimant testified that for a while he believed he had merely pulled a muscle. On October 13, 1998, he called his supervisor and reported that he was having shoulder pain and needed to see a doctor. Claimant's supervisor said he did not mention the incident about riding over a rough road in (City 1). There is medical evidence that claimant was diagnosed with cervical radiculopathy and left-sided carpal tunnel syndrome (CTS).

The hearing officer was the judge of the credibility of the witnesses and medical evidence. As the fact finder, she considered the issue of whether claimant sustained an injury in the course and scope of employment on _____, and resolved this issue against claimant. The hearing officer indicated that she did not find claimant's testimony to be credible. Claimant contends the evidence establishes a compensable injury, but the hearing officer was the sole judge of the credibility of the medical evidence and she determined that claimant did not sustain a compensable injury as he described. We will not substitute our judgment for hers regarding credibility because the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*. Given

our standard of review we will not overturn the hearing officer's decision. *Id*. We also affirm the disability determination because without a compensable injury, there can be no disability. We would note that claimant did not allege that his injury was an occupational disease injury, but asserted only that he sustained a specific injury on _____.

Claimant complains that the hearing officer did not consider the evidence in making her determinations. We do not find merit in this contention but note that in Finding of Fact No. 2, the hearing officer determined that, "[c]laimant did not sustain an injury to his back while driving a freight truck for Employer . . . ." The injury alleged was a neck and CTS injury. The hearing officer's decision and order indicates that she did consider the evidence regarding the injuries alleged by claimant. It appears that the words "to his back" in the above-mentioned fact finding were inadvertently included. We reform Finding of Fact No. 2 to state:

> On _____, claimant did not sustain an injury while driving a freight truck for employer on an uneven road surface.

As reformed, we affirm the hearing officer's decision and order.

_____
Judy Stephens
Appeals Judge

CONCUR:

_____
Joe Sebesta
Appeals Judge

_____
Robert W. Potts
Appeals Judge