

APPEAL NO. 000549

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 February 10, 2000. The issues at the CCH were whether the appellant (claimant) sustained a compensable injury in the course and scope of employment; and whether the claimant had disability. The hearing officer determined that the claimant did not sustain a compensable back injury on _____, and that he therefore did not have disability. The claimant appeals, requesting that we reverse the hearing officer's decision and render a decision in his favor. The respondent (carrier) responds, urging affirmance.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that he did not sustain a compensable back injury and that he did not have disability. Claimant asserts that he had more than just a urinary tract infection and that his alleged back injury has not yet resolved.

The hearing officer summarized the evidence in his decision. Briefly, claimant testified that he was lifting a heavy barrel over his head when he noticed numbness and pressure in his back. Claimant said he was hospitalized the next day with urinary tract or kidney problems. Claimant said he had a urinary tract infection, but after that was treated he still had back pain from the alleged back injury. He testified that he was eventually able to find a doctor to treat his alleged back injury and that he was released to light-duty work. Medical reports regarding EMG and MRI studies stated that they were ~~Normal~~ studies. In October 1999, Dr. H diagnosed claimant with a moderate lumbar strain with sciatica.

The hearing officer was the judge of the credibility of the witnesses and medical evidence. As the fact finder, he considered the issue of whether claimant sustained a back injury at work on _____, and resolved this issue against claimant. The matters claimant raises in his brief involved credibility and fact issues, which the hearing officer resolved. The hearing officer is the sole judge of the credibility of the evidence. We will not substitute our judgment for his in that regard 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 v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We also affirm the disability determination. Because there was no compensable injury, there can be no disability.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Alan C. Ernst
Appeals Judge