

APPEAL NO. 000912

On April 5, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issues by deciding that appellant (claimant) did not sustain an injury in the course and scope of her employment on _____, and that claimant has not had disability. Claimant requests that the hearing officer's decision be reversed and that a decision be rendered in her favor. Respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

It is undisputed that on _____, claimant was working for employer and that there was some oil spilled on the floor of the storeroom. Claimant testified that her left foot slipped in the oil and that she began to fall but caught herself by grabbing a rack. She said that she was injured in that accident. Claimant stated in a written statement that she hit her right hip on the rack and that she has had low back and left leg pain since that accident. Claimant stated in her recorded statement that there were no witnesses to the accident. Claimant said that she immediately told the manager, GH, that she had slipped in the oil and had almost fallen. GH testified that on _____ claimant showed him the spilled oil and he asked claimant if she had slipped in the oil or fallen and claimant told him that she had not and that she had stepped over the oil and was not hurt. GH said that claimant did not appear to be hurt. (TH) testified that on December 26th GH told her that claimant had slipped in the oil and had fallen. Claimant went to a hospital emergency room on January 10, 2000. A January 25, 2000, medical report noted in the history section that on _____ claimant slipped in oil and caught herself on a rack and an assessment of an L4-5 lumbar strain was given with an order for an MRI to rule out a herniated disc. That report noted that claimant was not to work until the MRI results are known. Claimant said carrier did not authorize the MRI. Claimant put into evidence several written statements from various people who stated that claimant told them that on _____ she had slipped in the oil in the storeroom and was injured. Some of the written statements state that claimant was limping and that GH had been informed of the accident.

Claimant had the burden to prove that she was injured in the course and scope of her employment and that she had disability. Injury, compensable injury, and disability are defined in Sections 401.011(26), (10), and (16), respectively. The hearing officer found that claimant did not sustain any damage or harm to the physical structure of her body during the course and scope of her employment on _____, and that claimant was not unable to obtain and retain employment at wages equivalent to her preinjury wage due to the claimed injury. The hearing officer decided that claimant did not sustain a compensable injury on _____, and that she did not have disability as a result of that claimed injury. Without a compensable injury, claimant would not have disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and

credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Contrary to claimant's assertion, Carrier's Exhibit No. 9 was not objected to at the CCH; thus, claimant's contention on appeal regarding untimely exchange of that exhibit has been waived. Claimant called no witnesses other than herself and TH, both of whom testified; thus, we find no merit in claimant's contention that her witnesses were not allowed to testify.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Dorian E. Ramirez
Appeals Judge