

APPEAL NO. 001017

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 April 5, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable back injury on _____, and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that sufficient evidence supports the hearing officer's decision.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that she did not sustain a compensable back and shoulder injury lifting leather jackets at work and that she did not have disability. The hearing officer summarized and discussed the facts in her decision and order. The applicable law regarding injury and disability issues and our standard of review are set forth in Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); 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.

The matters claimant raises in her brief involved credibility and fact issues, which the hearing officer resolved. A review of the decision and order indicates that the hearing officer did not believe claimant's testimony or any of the medical evidence regarding causation, including the medical evidence from the required medical examination doctor agreed to by both carrier and claimant. The hearing officer did not believe that claimant sustained a work related injury picking up jackets. The hearing officer apparently believed that if claimant had an injury, it was not work-related and was related to an earlier motor vehicle accident (MVA). Claimant was inconsistent regarding whether she had experienced any back pain from the May 1999 MVA. Claimant's doctors who gave opinions that claimant's back problems are due to her lifting incident at work stated that claimant told them she did not experience back problems after the MVA. One coworker testified that claimant told her one time that claimant's back had been "killing her since the MVA." The hearing officer apparently rejected claimant's testimony and her medical evidence because she believed claimant gave an inaccurate history to her doctors. Because the hearing officer did not believe claimant had a compensable injury, she also rejected claimant's contentions about psychological problems related to the claimed injury.

The hearing officer was acting within her province as fact finder in deciding what evidence she believed. Claimant asked the Appeals Panel to review the evidence to see whether certain medical evidence and testimony is credible. However, the Appeals Panel cannot do that because the hearing officer is the sole judge of the credibility of the evidence. The evidence is minimally sufficient to support the hearing officer's decision.

We conclude that her determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain. Because claimant did not have a compensable injury, she did not have disability. Disability, by definition, requires that there must have been a compensable injury.

Claimant noted some of the hearing officer's misstatements of the evidence. However, having reviewed the record and claimant's brief, we conclude that the errors did not constitute reversible error. Regarding the alleged misstatement about whether claimant was off work after the May 1999 MVA, we conclude that the hearing officer did not state that claimant missed time from work after the MVA. Claimant did not lose any time from work and did not obtain medical treatment during the months after the MVA.

Claimant contends that the hearing officer applied the wrong evidentiary standard and failed to consider or discuss certain evidence. We perceive no reversible error in his regard. We note that another hearing officer might have reached a different result based on the evidence in this case. However, this does not provide the Appeals Panel a basis for reversing the hearing officer's decision.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Thomas A. Knapp
Appeals Judge