

APPEAL NO. 001086

On April 20, 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 a compensable injury 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 his favor. Respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

Claimant had left wrist surgery in November 1998. Claimant testified that on _____, he slipped and fell on a wet floor in his wife's hospital room. Hospital records of May 4, 1999, state that claimant complained of pain in his back, elbows, left wrist, and groin, and he was diagnosed as having contusions and a muscle strain. Hospital records of May 5, 1999, state that claimant "now hurts everywhere" and note complaints of pain in his back, groin, left wrist, and neck, and low back spasms, and a diagnosis of muscle strain and spasm was made.

Claimant testified that on _____, he slipped and fell on wet pavement while walking from employer's parking lot to employer's "clock-in house." Claimant said that he did not recall seeing anyone around when he fell on _____. Apparently someone found claimant on the ground and had an ambulance transport him to a hospital emergency room. Claimant claims injuries to his back, left wrist, right elbow, and groin from his alleged fall of _____.

Claimant began treating with Dr. N on May 10, 1999, for complaints of lower back pain from his alleged _____. Dr. N took claimant off work and referred him to Dr. J who began seeing claimant on May 11th for complaints of pain in his neck, shoulder, low back, and groin from the alleged fall of _____. A lumbar MRI done on May 20, 1999, showed no evidence of focal disc herniation. Dr. P saw claimant at carrier's request and he opined that claimant suffers from a preexisting calcium pyrophosphate deposition disease and that claimant has chronic pain behavior with significant functional overlay. Dr. W saw claimant at the request of the Texas Workers' Compensation Commission on December 20, 1999, and he opined that claimant had a preexisting arthritic condition that was aggravated by his fall on _____. In a recorded statement, claimant denied having had a back injury prior to _____. Claimant said that he has been unable to work since _____.

Claimant had the burden to prove that he was injured in the course and scope of his employment and that he has had disability. The hearing officer found that, during the course and scope of his employment on _____, claimant did not fall or sustain injuries while attempting to clock in to work and that due to the claimed injury of

_____, claimant was not unable to obtain or retain employment at wages equivalent to his preinjury wage. The hearing officer concluded that claimant did not sustain a compensable injury on _____, and that he has not had disability. Without a compensable injury, claimant would not have disability as defined by Section 401.011(16).

It is apparent that the hearing officer did not find claimant's testimony about falling at work on _____ to be credible. Claimant contends that the hearing officer's findings of no injury on _____ and no disability are contrary to the overwhelming weight of the evidence and that carrier failed to prove that claimant had a preexisting injury that was the sole cause of his incapacity. The hearing officer is the sole judge of the weight and credibility of the evidence. 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 appealed findings, conclusions, and decision are supported by sufficient evidence and are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Since claimant failed to prove that he sustained a work-related injury on May 7th, we find no merit in claimant's contention regarding the sole cause of his alleged incapacity.

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