

## APPEAL NO. 001292

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 May 8, 2000. The hearing officer determined that appellant (claimant) did not sustain a compensable injury in the form of an occupational disease and that he did not have disability. Claimant appealed, contending that the chemical exposure did cause an injury and that the medical evidence supports his contentions. Respondent (carrier) responded that claimant was not a credible witness and that the hearing officer's determinations are supported by the evidence.

### DECISION

We affirm.

Claimant first contends that the hearing officer erred in determining that he did not sustain a compensable occupational disease injury after his alleged chemical exposure at work. Claimant asserted that the alleged chemical exposure did cause an injury and that the medical evidence supports his contentions. The claimant in a workers' compensation case has the burden to prove by a preponderance of the evidence that he sustained a compensable injury in the course and scope of employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The 1989 Act defines "injury" as damage or harm to the physical structure of the body and a disease naturally resulting from the damage or harm. Section 401.011(26). The definition of "injury" includes occupational diseases. An "occupational disease" is defined as "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body," but does not include "an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). To establish that he has an occupational disease, the claimant's evidence must show a causal connection between the employment and the disease. Texas Workers' Compensation Commission Appeal No. 91002, decided August 7, 1991. Whether the necessary causation exists is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 94266, decided April 19, 1994.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the 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); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that he sustained a compensable injury when he worked cleaning dog containment areas. He testified regarding cleaning dog bowls and said he thought the cleaning and use of certain products resulted in a chemical exposure that caused his claimed injuries or conditions. The medical evidence conflicted regarding whether claimant's claimed injuries were work related.

The hearing officer assigned whatever weight she deemed appropriate to the evidence before her, including the medical evidence. She could have chosen to believe or disbelieve any part of the evidence before her. The hearing officer stated in the decision and order that claimant did not meet his burden of proof. Having reviewed the record in this case, we do not find the hearing officer's decision to be so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. For this reason, we will not substitute our judgment for that of the hearing officer. Cain, *supra*.

Claimant contends the hearing officer erred in determining that he did not have disability, noting that he has been taken off work. Claimant did not sustain a compensable injury, therefore, the hearing officer did not err in determining that he did not have disability. Section 401.011(16).

We affirm the hearing officer's decision and order.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Susan M. Kelley  
Appeals Judge