

APPEAL NO. 001336

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 18, 2000, with the record closing on May 11, 2000. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury; (2) claimant did not have disability; and (3) claimant was an employee of (employer) on the date of the alleged injury. The claimant appeals, contending that the evidence established his injury and disability. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that he did not sustain a compensable injury and that he did not have disability. Claimant testified that on _____, he was standing near the top of a ten-foot ladder in a residential garage when he fell off and landed on his left side. Claimant said he told Mr. A, who was working with claimant, about the fall and that Mr. A saw him get up. Mr. A said that claimant did not tell him about the fall. Claimant said he and Mr. A left work early at 3:30 p.m. that day to go to lunch. He said he called the office, but no one answered. Ms. D, the office manager, said that employer tried to reach claimant by paging him and that he did not call in. She said claimant was told his services were no longer needed because he had left work early. She said claimant reported an injury after that time.

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 his brief involved credibility and fact issues, which the hearing officer resolved. A review of the decision and order indicates that the hearing officer simply did not believe that claimant sustained a work-related injury in the manner that claimant testified to at the hearing. The hearing officer was acting within his province as fact finder in deciding what evidence he believed. The hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain. Claimant complains that the hearing officer did not explain his reasoning in his decision. The hearing officer did note that there were discrepancies in the evidence and that there was a witness statement that was contrary to claimant's testimony, which serves as an explanation for his determinations. Because claimant did not have a compensable injury, he did not have disability. Disability, by definition, requires that there must have been a compensable injury.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge