

APPEAL NO. 001935

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 August 1, 2000. The hearing officer determined that: (1) the respondent (claimant) did not sustain a compensable injury; (2) claimant did not have disability; (3) claimant did not timely report an injury to her employer; and (4) the date of injury was _____. Appellant (carrier) appeals a fact finding that concerns the disability issue. The file does not contain a response from claimant.

DECISION

We affirm as reformed.

Carrier prevailed on all issues before the hearing officer. However, carrier appeals an underlying fact finding regarding the disability issue. In Finding of Fact No. 8, the hearing officer determined that, “[d]ue to the claimed injury, claimant was unable to obtain or retain employment at wages equivalent to claimant’s preinjury wage” The hearing officer concluded that claimant did not have disability because she did not have a compensable injury. Disability means the “inability *because of a compensable injury* to obtain and retain employment at wages equivalent to the preinjury wage.” Section 401.011(16). Disability, by definition, depends upon there being a compensable injury. *Id.* We perceive no error with the determination that claimant did not have disability in this case.

We now address Finding of Fact No. 8. The hearing officer apparently believed that claimant had pain and problems with her wrist, but that this was not a work-related injury. It appears that the hearing officer determined that claimant could not “obtain and retain employment at her preinjury wage” due to this non work-related, left wrist condition, though this, of course, did not establish disability. The words “claimed injury,” in Finding of Fact No. 8, have clearly caused confusion in this case. We reform Finding of Fact No. 8 to state:

Due to something other than a compensable injury, claimant was unable to obtain or retain employment at wages equivalent to claimant’s preinjury wage beginning on March 2, 2000, and continuing through July 11, 2000.

As reformed, we affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Kathleen Decker
Appeals Judge

Tommy W. Lueders
Appeals Judge