

APPEAL NO. 002170

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 July 20, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury and that he did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded 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 right leg/thigh/foot injury and that he did not have disability. Claimant points to evidence he contends supports his claim. The hearing officer summarized and discussed the facts in the decision and order. Briefly, claimant testified that he was pushing a heavy pallet on _____, when he heard a noise in his leg like something breaking. He said his foot was hurting and after two visits to a doctor who returned him to work, he went to the hospital because his foot was swollen. Claimant said he was told that twisting his foot caused a blood clot. Claimant underwent surgery on November 21, 1999, for excision of necrotic tissue and drainage of an abscess. Dr. S wrote that the cause was a "possible brown recluse spider bite."

The applicable law regarding injury and disability issues and our standard of review are set forth in Texas Workers' Compensation Commission Appeal No. 001661, decided August 29, 2000. The matters claimant raises in his brief involved credibility and fact issues, which the hearing officer resolved. The hearing officer decided what evidence she believed regarding the issues. There was evidence from Dr. T that: (1) claimant had an abscess in his foot that caused lymphangitis extending up to his groin; (2) claimant's work drew attention to the painful lymph glands; and (3) a spider bite is a likely cause of the abscess, but that it cannot be proven. Dr. T stated that he did not intend to state that claimant sustained an injury at work on _____. In a November 21, 1999, report, Dr. S stated that claimant denied trauma to his foot, claimant claimed trauma to his groin, and palpation of the groin revealed no discomfort. The hearing officer's determination that claimant did not sustain a compensable injury is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Because claimant did not have a compensable injury, he did not have disability. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). A claimant must have a compensable injury in order to have disability.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge