

APPEAL NO. 002288

On August 23, 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 the appellant (claimant) did not sustain a compensable injury on _____, and that the claimant has not had disability. The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor. No response was received from the carrier.

DECISION

Affirmed.

On _____, the claimant was working for the employer as a transporter. His job was to drive rental cars from the return location to the service area. The claimant testified that on _____, he parked a rental car, walked through water on the employer's parking lot, and then slipped on loose gravel and fell on a slope on the parking lot and injured his back. The claimant said that he is sure that JH, a coworker, saw him fall and that he immediately told JH that he fell. The claimant said that he worked in pain the rest of the day and that he has been unable to work after that day.

JH stated that he did not see the claimant fall and that he was unaware of the alleged incident until several days later when the claimant informed him of the incident. AB, the employer's safety coordinator, testified that there is a place on the employer's parking lot that has water on it but that the parking lot is flat. AR, the employer's manager, stated that he was unaware that the claimant was claiming a work injury until October 26, 1999, when he called the claimant after receiving a call from a doctor's office requesting payment for services.

The claimant began treating with Dr. L on October 26, 1999, for his claimed work-related back injury and Dr. L diagnosed a lumbar strain and lumbar contusion and took the claimant off work. An MRI of the claimant's lumbar spine done in December 1999 showed a herniated disc. The claimant began treating with Dr. G, a chiropractor, in March 2000 and Dr. G kept the claimant off work.

The 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 the claimant did not fall and injure his back on _____, and concluded that the claimant did not sustain a compensable injury on _____, and that he has not had disability. Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's decision is supported by sufficient

evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Tommy W. Lueders
Appeals Judge