

APPEAL NO. 002416

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 September 18, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that she 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 she did not sustain a compensable injury and that she did not have disability. The hearing officer discussed the facts in his decision and order. The applicable law regarding injury and disability issues and our standard of review are set forth in Texas Workers' Compensation Commission Appeal No. 001323, decided July 21, 2000.

The matters claimant raises in her brief involved credibility and fact issues, which the hearing officer resolved. In his decision and order, the hearing officer indicated that he did not find claimant to be a credible witness. The hearing officer was acting within his province as fact finder in deciding what evidence he believed. Although there was evidence that claimant fell at work, the hearing officer did not believe that claimant sustained damage or harm to the physical structure of her body from the fall. We have reviewed the record and the hearing officer's determination and we conclude that 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. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Because claimant did not have a compensable injury, she did not have disability. Disability, by definition, requires that there must have been a compensable injury.

Claimant complained that the hearing officer did not shift the burden to carrier to prove sole cause. However, the hearing officer determined that claimant did not meet her initial burden to prove that she sustained an injury. Therefore, carrier did not have the burden to prove whether anything else was the sole cause of claimant's disability. Texas Workers' Compensation Commission Appeal No. 950800, decided June 30, 1995. We perceive no error.

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