

APPEAL NO. 002454

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On September 12, 2000, a contested case hearing was held. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_; that the claimant has not had disability; and that the respondent (carrier) sufficiently disputed the compensability of the claimant's claimed injury. The claimant appealed. The carrier responded.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that on \_\_\_\_\_, he was performing his job duties as a maintenance worker for the employer when he injured his lower back while putting a 150-pound piece of machinery on the floor. On November 15, 1999, Dr. I diagnosed the claimant as having a back strain and put him on light duty. The claimant changed treating doctors to Dr. C, who took the claimant off work. A lumbar MRI done in January 2000 showed a mild bulge at L5-S1. The claimant was examined by Dr. B at the carrier's request in January 2000 and Dr. B reported that the claimant had no structural deficiency from the incident of \_\_\_\_\_ and that the claimant could return to work without restrictions.

There was conflicting evidence in this case. In the Statement of the Evidence portion of his decision, the hearing officer noted several inconsistencies in the evidence and determined that the claimant was not credible in the presentation of his claim. 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. The hearing officer's decision that the claimant did not sustain a compensable injury on \_\_\_\_\_, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision that the carrier's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) of November 24, 1999, wherein the carrier disputed the claim based on no injury in the course and scope of employment, sufficiently disputed the compensability of the claimant's claimed injury of \_\_\_\_\_, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Texas Workers' Compensation Commission Appeal No. 93326, decided June 10, 1993; Texas Workers' Compensation Commission Appeal No. 931148, decided February 1, 1994.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Judy L. Stephens  
Appeals Judge