

APPEAL NO. 002656

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 25, 2000, a hearing was held. The hearing officer resolved the disputed issues by deciding that:

1. the appellant (claimant) did not sustain a compensable injury in the form of an inguinal hernia and an injury to the lower back on \_\_\_\_\_; and
2. because the claimant did not sustain a compensable injury, the claimant has not had disability.

The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant contended that he sustained his hernia and low back injury while moving a barricade stand at work on \_\_\_\_\_. There was conflicting evidence as to whether the claimant moved any barricade stands at work on that day. There was testimony and written statements from the carrier's witnesses that the barricade stands were already in position when the claimant arrived at work and that all he was instructed to do was to string the barricade tape between the barricade stands, and that, if the claimant had fallen to his knees as claimed, that incident would have been witnessed but was not.

The hearing officer found that the credible evidence supported that the claimant did not move any barricades at work on \_\_\_\_\_, and that the claimant did not sustain an injury in the course and scope of his employment on \_\_\_\_\_. The hearing officer concluded that the claimant did not sustain a compensable injury in the form of an inguinal hernia and an injury to his lower back on \_\_\_\_\_, and that, because the claimant did not sustain a compensable injury, the claimant 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 finder of fact the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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).

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Kathleen C. Decker  
Appeals Judge