

APPEAL NO. 002793

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 26, 2000. With respect to the single issue before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____. In his appeal, the claimant essentially argues that the hearing officer's determination that he did not sustain a new compensable injury on _____, is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (employer) urges affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury to his low back on _____. The claimant testified that on _____, he was shoveling asphalt for the employer, when he felt a "pop" in his low back, which was followed by pain, numbness, and tingling in the lower extremities. There was evidence indicating that the claimant had similar complaints following the _____, injury and that he missed time from work in October 1999, due to back pain which he attributed to his 1998 injury. The claimant presented evidence from his treating doctor opining that the claimant sustained a new injury on _____.

There is conflicting evidence as to whether the claimant sustained a new compensable injury on _____. The hearing officer decided that the claimant did not sustain a compensable injury. 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 the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations are supported by sufficient evidence and that they are not so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Accordingly, no sound basis exists for us to disturb the hearing officer's determination that the claimant did not sustain a compensable injury on _____. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge