

APPEAL NO. 002825

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 November 16, 2000. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that she did not have disability. In her appeal, the claimant argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant testified that on _____, she was working as a helper for her employer, a moving company. She stated that she was standing on a ramp unloading a truck, when her coworker inside the truck lost control of a 4-wheel dolly, causing it to roll back and strike the claimant. The claimant testified that she felt a "pinch" in her low back at the time but she did not think it was serious. She stated that she had severe pain on _____, and that she sought medical treatment from Dr. L, a chiropractor, on _____. On June 19, 2000, the claimant had a lumbar MRI which revealed a 6mm protrusion at L5-S1. The claimant stated that she did not work for the employer following _____, and that she did not work at all until May 21, 2000, when she began working in an office. Mr. O, the president of the employer, testified that he first learned of the claimant's alleged injury on _____. Mr. O stated that at that time the claimant could only tell him that she had been injured at work somehow and could not specifically identify an incident that had caused her injury.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. From a review of the hearing officer's decision and order, it is apparent that he did not find the claimant's testimony credible. As the fact finder, he was free to discount the claimant's testimony and to determine that the claimant did not injure her low back at work on _____. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986)

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Judy L. Stephens
Appeals Judge