

APPEAL NO. 002915

Following a contested case hearing held on November 20, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by determining that the respondent (claimant) was entitled to benefits under the 1989 Act and that the appellant (carrier) did not waive the right to dispute the compensability of the claimed injury. The carrier appeals, disputing factual findings of the hearing officer and arguing that the claimant is not covered under the extraterritorial provisions of the 1989 Act. There is no response to the carrier's request for review from the claimant in the appeal file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant is a truck driver who hauls hazardous waste materials throughout the United States. On _____, the claimant was injured in a motor vehicle accident in the State of Missouri while working. The question in this case is whether the claimant's injury is covered by Texas law pursuant to the extraterritorial provisions of the 1989 Act. These provisions are found in Sections 406.071 and 406.072. The carrier challenged the following factual findings made by the hearing officer:

FINDINGS OF FACT

4. The injury made the basis of this claim would be compensable if it had occurred in the State of Texas.
5. The Claimant had significant contacts with the State of Texas.
6. The Claimant's employment was principally located in the State of Texas.
7. The Claimant was hired in the State of Texas.
8. The Claimant worked in the State of Texas, at least 10 working days, during the 12 month period, immediately preceding _____.

There was conflicting evidence concerning each of these findings. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing

officer. Pursuant to Sections 406.071 and 406.072, the hearing officer's factual findings are sufficient to support his conclusion that the claimant is entitled to benefits under the 1989 Act.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge