

APPEAL NO. 002975

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 4, 2000, a hearing was held. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, to his left shoulder, thoracic spine, and lumbar spine, and that the claimant has not had disability. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that he injured his left shoulder and back when rocks fell on him while he was performing his work duties digging in a hole. The claimant's supervisor's statement and the carrier's investigator's testimony contradicted the claimant's testimony regarding the circumstances of the alleged incident. Conflicting evidence was presented. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). A fact finder may believe that a claimant has an injury but disbelieve that the injury occurred at work as claimed. The weight and credibility to be given to the testimony and the medical evidence was for the hearing officer to determine as the finder of fact. We conclude that the hearing officer's decision against the claimant on the issues of compensable injury and disability are supported by sufficient evidence and are not so contrary to the overwhelming weight 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.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge