

APPEAL NO. 010045

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On December 5, 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 _____, and that the claimant has not had disability. The claimant appealed and the respondent (carrier) responded. The carrier contends that the claimant's appeal was not timely filed. The claimant's appeal was timely filed.

DECISION

The hearing officer's decision is affirmed.

There was conflicting evidence presented at the hearing. The claimant's testimony that on his first day of work for the employer he was injured while lifting and twisting a tire on a tire machine was contradicted by the testimony of the two people who worked with him that day. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer wrote in his decision that he did not find the claimant to be credible. The medical records indicate a lumbar strain. The finder of fact may believe that a claimant has an injury, but disbelieve that the injury occurred at work as claimed, which is what the hearing officer's findings reflect in this case. The hearing officer's determination that the claimant did not sustain a compensable injury on _____, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. The hearing officer did not err in determining that the claimant has not had disability because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge