

APPEAL NO. 010059

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 30, 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 _____; that the claimant has not had disability; and that the claimant's average weekly wage is \$465.09. The claimant appealed the adverse determinations on the issues of compensable injury and disability and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Conflicting evidence was presented at the hearing. The claimant testified that on _____, he was performing his work duties driving a roller when the roller hit a dip and he felt his neck pop and that he immediately reported his injury to his supervisor. The claimant's supervisor stated in a recorded statement that the claimant was driving a water truck on _____, and that the claimant did not report an injury to him on that day. A medical report of July 10, 2000, states a diagnosis of a cervical strain "without specific precipitating etiology." The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. 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:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge