APPEAL NO. 010170

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 January 8 and 9, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury either in the form of a repetitive trauma or a specific incident injury on _____, and that she did not have disability because she did not sustain a compensable injury. In her appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer noted that the medical evidence did not demonstrate some exacerbation of the claimant's preexisting condition or that the claimant had sustained a new injury. The hearing officer was acting within his role as the fact finder in determining that the claimant did not sustain her burden of proving that she sustained a compensable injury from performing her work activities on _____. Nothing in our review of the record indicates that the hearing officer's determination that the claimant did not sustain a compensable injury is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the 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 claimant attached to her request for review a letter from Dr. V dated November 27, 2000. She contends that it explains how her condition was aggravated by her work activities on _____. The November 27, 1997, letter from Dr. V was not offered in evidence at the hearing and was, therefore, not a part of the record. Generally, the Appeals Panel's review on appeal is limited to the record developed at the hearing. *See* Section 410.203(a). Moreover, the claimant has not shown that the letter attached to her request for review is newly discovered evidence inasmuch as the letter is dated November 27, 2000, and the hearing was held on January 8 and 9, 2001.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge