

APPEAL NO. 010199

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 11, 2001. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____. In his appeal, the claimant argues that the hearing officer's injury determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. There was conflicting evidence on the issue of whether the claimant sustained a hernia injury at work on _____, while pulling backer board, which is used to construct walls and flooring. The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies against the claimant and in determining that the claimant's hernia was not caused by performing his work activities. As the fact finder, the hearing officer was free to discount the claimant's causation evidence and that is what he did here. Our review of the record does not demonstrate that the hearing officer's determination that the claimant did not sustain a compensable injury is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Philip F. O'Neill
Appeals Judge