

APPEAL NO. 010264

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 18, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and, consequently, that he did not have disability.

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 was injured at work as he claimed. The hearing officer was acting within her province as the fact finder in determining that the claimant did not sustain his burden of proving that he sustained a compensable injury. The hearing officer was not required to accept the claimant's explanation of how the injury occurred even in the absence of a contrary explanation of the cause of the injury. As the fact finder, the hearing officer was free to discount the claimant's causation evidence and to determine that although she thought there was damage to the physical structure of the claimant's body, that he was not credible in his testimony that the injury occurred as a result of a fall at work. 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).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his 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 hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Philip F. O'Neill  
Appeals Judge

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Robert W. Potts  
Appeals Judge