

APPEAL NO. 010303

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On January 11, 2001, a hearing was held. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) did not sustain a compensable injury and that the claimant has not had disability. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that he injured his back from being overworked cleaning carts and unloading dishes. The claimant's supervisor testified that the claimant told him that he did not know how, when, or where he was injured. The claimant's treating doctor diagnosed the claimant as having a back strain. The conflicting evidence was for the hearing officer to resolve as the trier of fact. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer's decision that the claimant did not sustain a compensable injury 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. 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:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge