

APPEAL NO. 010419

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 20, 2001, with the record closing on January 30, 2001. Hearing officer, presiding as the hearing officer, determined that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease on _____, and that the claimant did not have disability within the meaning of the 1989 Act because she did not sustain a compensable injury. In her appeal, the claimant contends that those determinations are 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 occupational disease (repetitive trauma) injury. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. In his role as the fact finder, the hearing officer determined that the claimant did not sustain her burden of proving the causal connection between her bilateral epicondylitis and her employment. There was conflicting evidence presented regarding the nature and duration of the claimant's performance of repetitive activities at work. The hearing officer was free to resolve that conflict against the claimant and to determine that she did not present sufficient evidence to sustain her burden of proving a compensable injury. Nothing in our review of the record demonstrates that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse the hearing officer's compensable injury 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 claimant attached several documents to her appeal, which included some evidence that was not presented at the hearing. Generally, our review on appeal is limited to the record developed at the hearing (Section 410.203) and the claimant makes no showing that the evidence contained in her appeal that was not admitted at the hearing satisfies the requirements to justify a remand for consideration of that evidence. See Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

Finally, we briefly consider the claimant's contention that she was misled by various Texas Workers' Compensation Commission employees and the attorneys who represented the carrier in the dispute resolution process. We note that while the evidence in the record does not support the claimant's assertions, we will not further address this matter because it does not fall within our jurisdiction.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge