

APPEAL NO. 010537

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 February 16, 2001. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and did not have disability.

The claimant appealed, asserting that his claimed injury is supported by medical evidence and the facts. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as the manager of an outlet mall retail store. The claimant asserts that he fell off a "rickety" step stool on _____, and sustained a low back injury in the form of herniated discs at L4-5 and L5-S1. Basically, the evidence is in conflict regarding the claimant's job performance (and whether he was about to be terminated), the condition of the step stool, and the mechanics of the alleged fall. The medical evidence objectively confirms the existence of the herniated discs. The hearing officer discussed the conflicting evidence in determining that while the claimant had "an abnormal spinal condition" he had not established it was connected to his alleged fall.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge