

APPEAL NO. 010784

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 March 12, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury on _____, and that the claimant has not had disability. The claimant appealed the decision on the disability issue and the respondent (carrier) responded. There is no appeal of the hearing officer's decision that the claimant sustained a compensable injury on _____.

DECISION

The hearing officer's decision is affirmed.

The claimant testified that he was injured at work on _____, when he tripped over a log and fell backwards. The claimant was taken to a doctor who released him to work with restrictions. The claimant said that after his injury, he worked for the employer for about three weeks or a month, but that he has not worked anywhere since then. He said that the employer gave him heavy work to do. The claimant went to Dr. V, who provided an "off work" note on October 18, 2000, indicating only that the claimant was under his care.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that he had disability. The hearing officer noted that Dr. V did not indicate why the claimant was taken off work. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer determines what facts have been established from the evidence presented. The hearing officer's decision 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.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge