

APPEAL NO. 010925
FILED JUNE 5, 2001

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 26, 2001. The issues were: (1) Did appellant (claimant) sustain a compensable injury on _____, and (2) Did claimant sustain disability, and if so, for what periods? The hearing officer found that claimant did not sustain a compensable injury and did not have disability. Claimant appeals that the ruling is against the great weight and preponderance of the evidence. Respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

There was conflicting eyewitness evidence as to whether claimant slipped and fell in a pool of oil, thus injuring himself, on _____. Claimant testified he injured his right wrist, right elbow, right shoulder, and left knee in the incident. Other eyewitnesses who saw him at the time that he alleged that he slipped and fell testified that he did not slip and fall. The hearing officer found that claimant was neither "credible nor truthful in the presentation of his claim." Therefore, he found that the claimant did not meet his burden to prove he had a compensable injury.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). The hearing officer's decision is supported by the evidence and is not against the great weight and preponderance of the evidence. Cain v. Bain 709 S.W.2d 175, 176 (Tex. 1986).

In that we are affirming the hearing officer's decision that claimant had not sustained a compensable injury, claimant cannot, by definition in Section 401.011(16), have disability.

The hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Elaine M. Chaney
Appeals Judge