

APPEAL NO. 011037
FILED JUNE 21, 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 April 18, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability because he did not sustain a compensable injury. In his appeal, the claimant argues that the hearing officer's injury and disability 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 claimant had the burden to prove that he sustained a compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what weight to give to the evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer as fact finder may believe all, part, or none of the testimony of any witness. When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In this instance, the hearing officer determined that the incident described by the claimant occurred; however, she further determined that it did not cause damage or harm to the physical structure of the claimant's body and that it did not result in an injury. The hearing officer was acting within her province as the finder of fact in so finding. We have previously recognized that the fact that the incident occurred does not necessarily result in a determination that an injury occurred. Texas Workers' Compensation Commission Appeal No. 951547, decided October 30, 1995. The hearing officer's determination that the claimant did not sustain a compensable injury is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse the challenged determination on appeal. Pool; Cain.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge