

APPEAL NO. 011043  
FILED JUNE 25, 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 November 28, 2000, and March 23, 2001. The hearing officer presiding as hearing officer. The hearing officer determined that appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contends the hearing officer erred in excluding Claimant's Exhibit No. 3. The medical evidence that was contained in Claimant's Exhibit No. 3 was otherwise admitted at the hearing. The other documents contained in the exhibit were reports and claim information for a case manager or adjuster. We conclude that any possible error in the exclusion of this evidence was not reasonably calculated to cause nor did it probably cause the rendition of an improper decision. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; see *also Hernandez v. Hernandez*, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ).

Claimant also contends that the hearing officer erred in excluding the testimony of Dr. G. Carrier objected that Dr. G is not a treating doctor, that his testimony would be speculation, and that it was not informed he would be a witness until early March 2001, a few weeks before the hearing. Claimant responded that Dr. G's name has "been known" and that reasonable diligence was used to try to find an expert. Claimant stated that as soon as an expert was found "to review the records and give us some of the sequence of events," the name of that expert witness was exchanged. There is no report from Dr. G in the record. Claimant stated that Dr. G's "helpfulness would come, as far as the sequence of events leading up to these kinds of conditions, if anything." The hearing officer denied claimant the opportunity to make an offer of proof, and claimant appeals this denial also. It was undisputed that Dr. G did not witness claimant's fall or examine claimant. Claimant's attorney stated that his expert testimony about the "sequence of events" would be speculative. We conclude that any error in the denial of the offer of proof and the exclusion of his testimony was harmless error.

We have reviewed the complained-of determinations regarding injury and disability and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer stated that claimant did not meet her burden to prove causation. See Texas Workers' Compensation Commission Appeal No. 951576, decided November 9, 1995; Texas Workers' Compensation Commission Appeal No. 951583, decided November 9, 1995.

With no compensable injury, claimant could not have disability. We conclude that the hearing officer's determinations regarding injury and disability are 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).

We affirm the hearing officer's decision and order.

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

CONCUR IN RESULT:

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Thomas A. Knapp  
Appeals Judge