

APPEAL NO. 011078
FILED JULY 02, 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 23, 2001. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury; that he did not timely report his alleged injury to his employer; and that he did not have disability because he did not sustain a compensable injury. In his appeal, the claimant essentially argues that each of those determinations is against the great weight of the evidence. The appeals file does not contain a response to the claimant's appeal from the respondent (carrier).

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury and that he did not timely report his alleged injury to his employer. Those issues presented questions 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 facts the evidence has established. 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). The hearing officer noted that the claimant did not sustain his burden of proving either a compensable injury or timely notice. He noted several factors that weighed against the claimant in terms of the credibility of his testimony. The hearing officer was acting within his province as the finder of fact in considering those factors and in determining that the claimant failed to carry his burden of proof. The hearing officer's determinations that the claimant did not sustain a compensable injury and did not timely report the alleged injury are 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 that determination on appeal. Pool; Cain. Although another fact finder may well have drawn different inferences from the evidence, which would have supported a different result, that does not provide a basis for us to disturb the hearing officer's decision. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ *ref'd n.r.e.*).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that the claimant did not have disability. By definition, in the absence of a compensable injury, there can be no disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge