

APPEAL NO. 011169
FILED JULY 09, 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 24, 2001. The hearing officer determined that appellant/cross-respondent (claimant) did not sustain a compensable occupational disease injury and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent/cross-appellant self-insured (carrier herein) responded that the Appeals Panel should affirm the determination that claimant did not sustain a compensable injury and that she did not have disability. Carrier appealed the determination that, "due to the injurious condition," claimant is unable to obtain and retain her preinjury wage from November 30, 2000, through the date of the hearing. The file does not contain a response from claimant.

DECISION

We affirm.

We have reviewed claimant's contentions regarding the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. 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).

In its cross-appeal, carrier contends that the hearing officer erred in determining that, "[d]ue to the injurious condition, the claimant has been unable to obtain and retain employment at her preinjury wages" Carrier asserts that the evidence does not support this determination. The carrier prevailed at the hearing and is not aggrieved by the hearing officer's decision and order. Even if we were to find that the hearing officer erred in making this fact finding, which we do not, our determination would not affect the outcome of the case. In any case, the determination is supported by the evidence.

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge