APPEAL NO. 011230
FILED JULY 17, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on April 19, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant has appealed these determinations on sufficiency of the evidence grounds. The respondent (carrier) contends that the evidence is sufficient to support an affirmance.

DECISION

Affirmed.

The hearing officer did not err in making the challenged determinations. The claimant testified that while employed as a lineman by the employer, he and others were sent to repair electrical lines in another state which had been damaged by a severe ice storm; that on _____, he slipped on ice and fell on his left side at around 11:00 a.m. and got up and continued working; that during the afternoon on that day he again slipped and fell, this time on his right side; and that he continued to work for the remainder of that day and the next day. The claimant maintained that he reported his injury to Mr. D, the head foreman. The claimant further stated that the crew returned to their home base city where he continued to perform various tasks for the employer until January 8, 2001, when his employment was terminated for the stated reason of insufficient experience. He said that the next day he sought treatment from Dr. F, a chiropractor, who took him off work, and that Dr. F's office provided him with an Employee's Notice of Injury or Occupational Disease and Claim for Compensation (TWCC-41) which he completed and filed. Both Mr. D and Mr. R, a crew foreman, testified that the claimant said nothing to either of them about having fallen on _____, and that he gave no indication of being in pain and had no apparent difficulty performing his job tasks including driving a truck for approximately ten hours on the return trip. Mr. D said he first learned that the claimant was asserting a job-related injury sometime after the termination of his employment and the initiation of his chiropractic treatment.

The hearing officer explains in his discussion of the evidence why he did not find the claimant's evidence persuasive. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge