

APPEAL NO. 011272
FILED JULY 20, 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 May 10, 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 hearing officer did not err in determining that the claimant did not sustain a compensable injury. 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 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). 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 simply was not persuaded by the claimant's testimony that he sustained a back injury as a result of his work activities for the employer on _____. 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 that determination on appeal. Pool; Cain.

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:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge