

APPEAL NO. 011393
FILED JULY 27, 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 (CCH) was held on May 25, 2001. With respect to the sole issue before her, the hearing officer determined that the appellant (claimant) did not have disability during any period of time from June 7, 2000, through the date of the CCH. The claimant contends that this determination is against the great weight and preponderance of the evidence. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

Disability is defined as the inability to obtain and retain employment at wages equivalent to the preinjury wage due to the compensable injury. Section 401.011(16). It is well-settled that a claimant has the burden of proving, by a preponderance of the evidence, that he sustained disability as a result of a compensable injury. Texas Workers' Compensation Commission Appeal No. 93953, decided December 7, 1993; Texas Workers' Compensation Commission Appeal No. 93143, decided April 9, 1993. Disability is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact the hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. The hearing officer's determination that the claimant did not have disability for any period of time from June 7, 2000, through the date of the hearing is supported by the evidence. Nothing in our review of the record demonstrates that the hearing officer's disability determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. 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 decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge