

APPEAL NO. 011417
FILED AUGUST 01, 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 1, 2001. The record closed on June 4, 2001. With respect to the issue before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____. In his appeal, the claimant essentially argues that the hearing officer's injury determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant attached several documents to his appeal, which included some evidence that was not presented at the hearing. Generally, our review on appeal is limited to the record developed at the hearing (Section 410.203) and the claimant makes no showing that the evidence contained in his appeal that was not admitted at the hearing satisfies the requirements to justify a remand for consideration of that evidence. See Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

The claimant had the burden of proving he sustained the claimed injury of _____. The issue of whether the claimant sustained a compensable injury presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). There was conflicting evidence on the injury issue. As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. The hearing officer was acting within his role as the fact finder in determining that the claimant did not sustain his burden of proof. Nothing in our review of the record indicates that the hearing officer's determination that the claimant did not sustain a compensable injury on _____, 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 disturb that determination on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We find no merit in claimant's assertions that the ombudsman did not provide adequate assistance to him in presenting his case at the hearing. The claimant did not raise this issue at the hearing. To the contrary, he acknowledged on the record that he had sufficient opportunity to avail himself of the ombudsman's assistance in preparing for the hearing and stated that he was ready and willing to proceed with the ombudsman's assistance.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge