

APPEAL NO. 011431  
FILED JULY 31, 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 June 6, 2001. The hearing officer determined that (1) the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease on \_\_\_\_\_; and (2) the claimant did not have disability because she did not sustain a compensable injury. The claimant appeals the determinations on sufficiency grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

**Compensable Injury**

The hearing officer did not err in determining that the claimant did not sustain a compensable injury in the form of an occupational disease on \_\_\_\_\_. The claimant had the burden to prove that she suffered damage or harm to the physical structure of the body occurring as a result of repetitious, physically traumatic activities that occurred over time and arose out of and in the course and scope of employment. See Texas Workers' Compensation Commission Appeal No. 992486, decided December 29, 1999; Sections 401.011(34) and (36). Conflicting evidence was presented with regard to this issue. 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, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination is 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).

**Disability**

The hearing officer did not err in determining that the claimant did not have disability. The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

The decision and order of the hearing officer are affirmed.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge