

APPEAL NO. 011565  
FILED AUGUST 8, 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 31, 2001. With respect to the issues before her, the hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that the claimant had no disability from a compensable injury. The claimant appeals, contending, essentially, that the hearing officer's decision is against the great weight and preponderance of the evidence.

The respondent/cross-appellant (carrier) files a conditional appeal of some findings, asking that the appeal be withdrawn if the claimant does not appeal the findings against him. The carrier also files a response urging affirmance of the determination that the claimant had no compensable injury and no disability from a compensable injury. The claimant did not respond to the carrier's conditional request for review.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

There was conflicting evidence presented at the CCH on the issue of injury. The claimant testified that he was injured while lifting a steel platform for the employer. There was testimony from supervisors that this was a spite claim, and that the claimant never contended that he was injured until after he was terminated for insubordination. The question under our standard of review was whether the hearing officer's determinations were 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). Applying this standard, we find sufficient evidence to support the hearing officer's finding that the claimant did not sustain a compensable injury on January 10, 2001.

The carrier conditionally appeals the hearing officer's determination that the claimant was unable to obtain or retain employment at wages equivalent to his preinjury wage, due to his claimed injury, beginning on January 15, 2001, and continuing through March 14, 2001. In as much as we are affirming the hearing officer's decision that the claimant had not sustained a compensable injury, the claimant cannot, by definition in Section 401.011(16), have disability.

Accordingly, the decision and order of the hearing officer are affirmed.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge