

APPEAL NO. 011566
FILED AUGUST 23, 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 12, 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. In his appeal the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. 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. The hearing officer resolved the conflicts and inconsistencies in the evidence against the claimant, and she was acting within her role as fact finder in determining that the claimant did not sustain his burden of proving injury. Nothing in our review of the record indicates that the challenged 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 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).

Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the hearing officer's determination that he did not have disability. "Disability" means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Thus, the existence of a compensable injury is a prerequisite to a finding of disability.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge