

APPEAL NO. 011578  
FILED AUGUST 22, 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 14, 2001. The hearing officer resolved the disputed issues by deciding that the appellant/cross-respondent (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that the claimant has not had disability. The claimant appealed the hearing officer's decision on the issues of compensable injury and disability. The respondent/cross-appellant (carrier) appealed a finding of fact regarding the disability issue.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that on \_\_\_\_\_, the claimant was involved in a minor motor vehicle accident (MVA) while in the course and scope of his employment. The dispute in this case centers on whether the claimant sustained an injury, as defined in Section 401.011(26), as a result of the MVA. Although the claimant was diagnosed as having a lumbar strain after the MVA, there is evidence that the claimant's lumbar strain may have occurred when he lifted up his child at home after the MVA, but before he was diagnosed as having a lumbar strain. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's decision that the claimant did not sustain a compensable injury, as that term is defined in Section 401.011(10), is supported by sufficient evidence and is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. With regard to the appeals on the disability issue, since the claimant did not sustain a compensable injury, he could not have disability as defined by Section 401.011(16). Consequently, the hearing officer correctly decided that the claimant has not had disability.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge