

APPEAL NO. 011623
FILED AUGUST 16, 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 June 20, 2001, with the record closing on June 20, 2001. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of a repetitive trauma occupational disease on _____, and that the claimant did not have disability from a compensable injury. The claimant has appealed on sufficiency of the evidence grounds. The respondent (self-insured) has responded, urging affirmance.

DECISION

There is a typographical error in the date in Finding of Fact No. 3; the date is corrected to 01-18-01, vice 07-18-01. In all other respects, the hearing officer's decision is affirmed.

Compensable Injury

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The claimant had the burden to prove that she sustained damage or harm in the form of a repetitive trauma occupational disease to her right hand and wrist, arising out of and in the course and scope of her employment. See Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. The hearing officer concluded that the claimant failed to meet her burden. The hearing officer had the benefit of seeing the witnesses as they testified, and was best able to assess their credibility. 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 Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

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.

The true corporate name of the insurance carrier is **(employer)** and the name and address of its registered agent for service of process is

(company)
(residence).

Michael B. McShane
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge