

APPEAL NO. 011701
FILED SEPTEMBER 4, 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. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury and did not have disability.

The claimant appeals, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant worked as a housekeeper for the employer. The claimant testified that on _____, while performing her housekeeping duties, she was lifting and pulling on a sofa bed and injured her back, waist, and abdomen. On January 7, 2001, the claimant quit her employment reasoning that she would be terminated from her employment if she called in sick and that it was easier to look for other employment as someone who quit her job rather than as someone who was fired from her job. The claimant sought medical treatment for her back, waist, and abdomen on January 30, 2001. The claimant notified her employer that she had sustained a work-related injury in early February 2001 and filed an Employee's Notice of Injury or Occupational Disease & Claim for Compensation (TWCC-41) on February 7, 2001, at the urging of her sister. The claimant has been unemployed from January 6, 2001, to the date of the CCH.

The hearing officer determined that working with the sofa bed caused the claimant to have some pain but the pain did not result in an injury as defined in Section 401.011(26), and since the claimant did not have a compensable injury, the claimant did not have disability. The evidence sufficiently supports the hearing officer's determinations regarding compensability and disability. It is the hearing officer, as the sole judge of the weight and credibility of the evidence (Section 410.165(a)), who resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel 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).

Because we are affirming the hearing officer's decision that the claimant did not have a compensable injury, the claimant cannot, by definition in Section 401.011(16), have disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS INSURANCE OF WAUSAU** and the name and address of its registered agent for service of process is

**MR. STEPHEN M. DANSEVICH
2512 S. IH-35, SUITE 160
AUSTIN, TEXAS 78704-5751.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge