

APPEAL NO. 011727
FILED AUGUST 28, 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 20, 2001. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable injury on _____, but did not have disability from the compensable injury. The appellant/cross-respondent (carrier) appeals the injury determination on sufficiency grounds. The claimant appeals the disability determination on sufficiency grounds.

DECISION

Affirmed.

Compensable Injury

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that she sustained damage or harm to the physical structure of her body, arising out of and in the course and scope of her employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. 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)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 (Tex. 1986).

Disability

The hearing officer did not err in determining that the claimant did not have disability. The claimant had the burden to prove that she was unable, because of the compensable injury, to obtain or retain employment at wages equivalent to the preinjury wage. Texas Workers' Compensation Commission Appeal No. 000406, decided April 6, 2000. As the sole judge of the weight and credibility of the evidence, the hearing officer could disbelieve the claimant's evidence and find that she was not unable to obtain or retain employment at her preinjury wage due to her compensable injury. Accordingly, we cannot conclude that the hearing officer's disability determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*. This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(carrier)** and the name and address of it's registered agent for service of process is

(Company)
(Address)
(City), Texas

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge