

APPEAL NO. 011733
FILED AUGUST 30, 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 July 2, 2001. The hearing officer determined that (1) the appellant/cross-respondent (claimant) did not sustain a compensable injury on _____; (2) the claimant did not have disability; and (3) the claimant timely reported an injury to his employer. The claimant appeals the injury and disability determinations on sufficiency grounds. The respondent/cross-appellant (carrier) filed a conditional cross-appeal of the hearing officer's notice determination, on sufficiency grounds.

DECISION

Affirmed.

Compensable Injury

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. The claimant had the burden to prove that he sustained damage or harm to his lower back on _____, arising out of and in the course and scope of his 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)). The hearing officer could disbelieve the claimant's testimony and infer from the medical evidence that the claimant did not sustain a work-related injury on _____. The hearing officer's injury determination is not 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 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 a disability.

Notice of Injury

The carrier's cross-appeal of the hearing officer's notice determination is conditioned upon the success of the claimant's appeal. Given our affirmance of the hearing officer's injury and disability determinations, we need not address the carrier's conditional cross-appeal.

The decision and order of the hearing officer are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge