

APPEAL NO. 011967
FILED SEPTEMBER 25, 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 30, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that she did not have disability because she did not sustain a compensable injury. The claimant appealed both the injury and disability determinations on sufficiency grounds. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. That issue presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the injury issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer was not persuaded that the claimant sustained her burden of proving that she sustained an injury. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse the challenged determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the disability determination. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

In her appeal, the claimant contends that the hearing officer was "biased" and "unfair." Our review of the record does not indicate that the hearing officer demonstrated any bias against the claimant. To the extent that the claimant's assertions are related to the hearing officer's decision to close the record without taking the telephone testimony of the claimant's treating doctor, we note that the hearing officer made an attempt to call the doctor and he was not prepared to testify at the time he was contacted. The hearing officer did not abuse her discretion in closing the record under those circumstances and we perceive no reversible error in the hearing officer's actions.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is:

**GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge