

APPEAL NO. 011977
FILED SEPTEMBER 26, 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 begun on April 19, 2001, reconvened and again recessed on May 2, 2001, and reconvened and closed on July 26, 2001. The appellant (claimant) appeals the hearing officer's determinations that the claimant did not sustain a compensable injury in the form of an occupational disease, with a date of injury of _____, and that the claimant did not have disability from a compensable injury. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

There was conflicting evidence concerning whether the claimant sustained a compensable injury or occupational disease. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer.

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

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **RELIANCE NATIONAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is as follows:

**TIMOTHY J. MCGUIRE
633 NORTH STATE HIGHWAY 161, SUITE 200
IRVING, TEXAS 75038.**

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge