

APPEAL NO. 011992  
FILED SEPTEMBER 26, 2001

Following a contested case hearing held on July 31, 2001, with the record closing on August 1, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that he did not have disability. The claimant has appealed, asserting that the hearing officer's findings of fact are not the facts, that he has disputes with certain of the respondent's (carrier) exhibits, and that the hearing officer's decision is "very inconsiderate." The carrier's response urges the sufficiency of the evidence to support the challenged findings.

DECISION

Affirmed.

The claimant testified that on \_\_\_\_\_, while loading boxes of shrimp into a trailer, he slipped on ice on the trailer floor and fell, landing on his buttocks; that he finished his shift in pain; that he called in requesting sick days on March 1 and 2, 2001, but did not report the accident because he thought it "would pass"; that on March 3, 2001, he was taken off work by a doctor who said he would so advise the employer; that the doctor failed to fax the off-work slip; and that he then refused to sign a write-up for missing work that day. The claimant acknowledged testing positive for marijuana on March 5, 2001, and also acknowledged having a history of write-ups for absences from work. His employment was terminated.

The claimant had the burden to prove that he sustained the claimed injury and that he had disability as that term is defined in Section 401.011(16). Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The Appeals Panel has stated that in workers' compensation cases, the disputed issues of injury and disability can, generally, be established by the lay testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992. However, the testimony of a claimant, as an interested party, only raises issues of fact for the hearing officer to resolve and is not binding on the hearing officer. Texas Employers Insurance Association v. Burrell, 564 S.W.2d 133 (Tex. Civ. App.-Beaumont 1978, writ ref'd n.r.e.).

The hearing officer states in her discussion of the evidence that she did not find the claimant's testimony to be credible. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), 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.). As an

appellate reviewing tribunal, 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. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

As for any claim of error in the admission of the carrier's exhibits, the claimant did not object to their admission at the hearing and thus has no basis for raising such issue for the first time on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge