

APPEAL NO. 012170
FILED NOVEMBER 5, 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 August 10, 2001. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease on _____, and that he did not have disability. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant attributes his various medical problems to chemical exposure while working for the employer. The carrier asserts that the claimant has a normal disease of life and presented evidence that the claimant was provided with protective gear, there were no reports of equipment malfunction, and that none of the claimant's coworkers have made a claim for an exposure injury.

An occupational disease is "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. . . . The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). An employee must prove, by a preponderance of the evidence, the compensability of an occupational disease. Texas Workers' Compensation Commission Appeal No. 960582, decided May 2, 1996, citing Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). The hearing officer determined that because causation of the claimant's condition is not within common knowledge, expert medical evidence to a reasonable degree of medical probability was required for the claimant to meet his burden of proof. We agree. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 970083, decided February 28, 1997. There was conflicting medical evidence presented on the issue of causation of the claimant's medical condition and disability. The claimant presented medical evidence that his condition was the result of exposure to organic solvents. The carrier presented medical evidence which indicates that the claimant's condition would not be caused by the type of exposure he alleges, and in fact he would have had the same condition with or without his brief exposure while working for the employer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolved the conflicts and inconsistencies in the evidence against the claimant and she was acting within her role as the fact finder in determining that the claimant did not sustain his burden of proof on either issue. Nothing in our review of the record indicates that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or

manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CT. CORPORATION SYSTEMS
350 N. ST. PAUL
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge