

APPEAL NO. 012265
FILED OCTOBER 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 August 23, 2001. The appellant (claimant) appeals the hearing officer's determinations that she did not sustain a compensable injury on _____, and that because she did not sustain a compensable injury, she did not have disability. The respondent (carrier) responds, urging the factual sufficiency of the evidence.

DECISION

Affirmed.

The claimant testified that she injured her neck and back at work on _____, while she was filling a bucket with water, and further claimed that her injury extended to and included anxiety, depression, headaches, and TMJ [temporomandibular joint syndrome]. Conflicting evidence was provided regarding whether the claimant was injured at work. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer determined that the claimant did not sustain a compensable injury, noting that "her testimony simply lacks credibility." We will reverse a factual determination of a hearing officer only if that determination is so against 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 Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the evidence for that of the hearing officer.

Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Because the claimant did not sustain a compensable injury, she cannot have disability.

The hearing officer's decision and order are affirmed.

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

**HAROLD FISHER, PRESIDENT
3420 EXECUTIVE CENTER DRIVE, SUITE 200
AUSTIN, TEXAS 78731.**

Michael B. McShane
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge