

APPEAL NO. 012324
FILED NOVEMBER 8, 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 (CCH) was held on August 28, 2001. With respect to the issues¹ before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on either _____ or _____, and thus had no disability thereafter. The claimant appeals on sufficiency grounds and seeks reversal. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

There was sufficient evidence in the record to support the hearing officer's determination that the claimant did not sustain a compensable injury on either _____ or _____.² The claimant testified that, while working at an oil rig site for the employer, he injured his right foot on _____, when a "joint" of pipe fell on it. The claimant also testified that on _____, he tripped over a "joint" pipe and fell, hurting his left hip and low back. The claimant introduced medical records from an emergency room visit of _____, indicating an injury to his right foot and lumbosacral spine. The carrier introduced statements from coworkers and a supervisor, who also testified, indicating that they had not seen any pipe fall on the claimant or anyone at the site on _____. The statement and testimony of the claimant's supervisor indicated that he had witnessed the claimant fall on _____, but that it was minor and the claimant did not complain of being injured, nor was the claimant limping or claiming an injured foot from the previous day. In addition, the carrier presented a statement indicating that through relatives of the claimant, his supervisor understood that the claimant hurt his foot while out dancing on _____.

Whether the claimant sustained a compensable injury on either _____ or _____ was a factual issue for the hearing officer to decide. There was conflicting evidence submitted on that disputed issue. 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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any

¹The CCH held consolidated the docket numbers in the caption, which were distinguished only by date of injury; therefore, the issues were compensable injury and disability for a date of injury of _____ and/or _____.

²All dates referenced are 2001, unless otherwise noted.

witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

As we affirm the conclusion that the claimant had not sustained a compensable injury, we also affirm the hearing officer's determination that the claimant did not have disability. Without sustaining a compensable injury, a claimant cannot, as a matter of law, have disability. See Section 401.011(16).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **COMMERCE & INDUSTRY INSURANCE COMPANY** and the address of its registered agent for service of process is:

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE I
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge