

APPEAL NO. 012340  
FILED NOVEMBER 7, 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 September 12, 2001. She determined that the appellant (claimant) did not sustain a compensable injury; that the date of the claimed injury is \_\_\_\_\_; and that the claimant did not have disability. On appeal, the claimant expresses disagreement with the determinations relating to compensability and disability. The respondent (carrier) urges affirmance.

DECISION

Affirmed as reformed.

As the claimant correctly points out in his request for review, portions of the hearing officer's decision refer to the date of the claimed injury as \_\_\_\_\_, when in fact the date is \_\_\_\_\_, as reflected in the statement of evidence and findings of fact portions of the decision. The hearing officer's decision is hereby reformed to reflect this correction.

A compensable injury is defined as "an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle." Section 401.011(10). The claimant had the burden to prove he was injured in the course and scope of his employment. Reed v. Aetna Casualty & Surety Co., 535 S.W.2d 377 (Tex. Civ. App.-Beaumont 1976, writ ref'd n.r.e.). In the present case, the hearing officer determined that the claimant did not sustain a compensable injury. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. 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 to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951).

"Disability" is defined as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Because we affirm the hearing officer's determination that the claimant did not sustain a compensable injury, we do not perceive error in the hearing officer's resolution of the disability issue.

The decision and order of the hearing officer are affirmed as reformed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTORNEY  
450 GEARS ROAD, SUITE 500  
HOUSTON, TEXAS 77067.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge