

APPEAL NO. 012450
FILED NOVEMBER 28, 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 6, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and that the claimant had disability from _____, through June 4, 2000. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____, and that the claimant had disability from _____, through June 4, 2000. The hearing officer's decision is supported by the claimant's testimony and by the medical reports. The hearing officer was clearly not persuaded by the carrier's argument that the claimant had an "idiopathic fall" when the evidence showed that the claimant had to lift his leg up two and one-half feet to three feet to perform his job duty at the time of the injury. The carrier's arguments that the injury is not compensable because the claimant did not "contact with an instrumentality of the employer" and that the claimant had to show that he was "put at a greater risk of harm than the general public" are also unpersuasive. See Hanover Insurance Company v. Johnson, 397 S.W.2d 904 (Tex. Civ. App.-Waco 1965, writ ref'd n.r.e.).

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. The hearing officer's decision is supported by sufficient evidence and is not 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge