

APPEAL NO. 012601
FILED DECEMBER 4, 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 October 9, 2001. The hearing officer determined that appellant (claimant) did not sustain a compensable injury and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer stated that claimant was not a credible witness, and it is apparent that he did not believe that claimant sustained an injury on _____, or any other date testified to by claimant. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Claimant appears to contend that she was confused at the hearing because of the effects of medications she was taking. The record does not reflect that claimant ever brought this issue to the hearing officer's attention, and our review of the record does not indicate that this issue was raised. Although claimant gave conflicting dates regarding the events, the record does not reflect that her ability to testify was discussed or that an inability to testify was apparent. In his decision and order, the hearing officer stated that claimant did not give any real indication that she was not competent to participate at the hearing. We perceive no error.

Claimant has attached documents to her appeal that were not admitted at the hearing. Generally, we will not consider evidence not submitted into the record but offered for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that case be remanded for further consideration, we consider whether it came to the party's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). We decline to consider this evidence for the first time on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **MOUNTAIN VALLEY INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

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

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge