

APPEAL NO. 013209  
FILED FEBRUARY 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case is back before us after our remand in Texas Workers' Compensation Commission Appeal No. 012370, decided November 15, 2001. In Appeal No. 012370, we had remanded for the hearing officer to obtain the carrier service information in compliance with HB 2600, effective June 17, 2001. The hearing officer complied with the remand and obtained this information. On remand, the hearing officer reissued essentially the same decision as she issued after the contested case hearing, which was held on August 21, 2001. In her decision, the hearing officer resolved the issues before her by determining that the appellant (claimant herein) did not sustain a compensable injury and did not have disability. The claimant urges on appeal that this determination is against the great weight of the evidence. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

A "compensable injury" means "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). "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). The claimant had the burden to prove that he was injured in the course and scope of his employment. Reed v. Aetna Casualty & Surety Company, 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 and, consequently, did not have disability. 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).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**FRANCIS FAYE  
9229 WATERFORD CENTRE BLVD., STE. 100  
AUSTIN, TEXAS 78758.**

---

Gary L. Kilgore  
Appeals Judge

CONCUR:

---

Susan M. Kelley  
Appeals Judge

---

Robert W. Potts  
Appeals Judge