

APPEAL NO. 020059
FILED FEBRUARY 28, 2002

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 November 29, 2001. The hearing officer resolved the disputed issue by determining that appellant (claimant) did not sustain a compensable injury on _____, and that claimant did not have disability. Claimant appealed the hearing officer's determinations on sufficiency grounds and contends that the hearing officer improperly considered excluded testimony. There is no response from respondent (carrier) contained in our file.

DECISION

We affirm.

Claimant contends that the hearing officer improperly considered excluded testimony. While it does appear that, in his decision, the hearing officer did consider and discuss testimony that he had excluded, the substance of the excluded testimony was established by other testimony that was properly admitted. Thus, the hearing officer's error was harmless error. See Texas Workers' Compensation Commission Appeal No. 992078, decided November 5, 1999.

Claimant also contends that the hearing officer erred as a matter of law and that the decision is against the great weight and preponderance of the evidence. The hearing officer concluded that claimant did not sustain damage or harm to his body while lifting a television at work on _____. We have reviewed the determination regarding whether claimant injured himself lifting a television and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination is 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). Regarding course and scope, even assuming without deciding that the hearing officer erred in this determination, there is no compensable injury found by the hearing officer. Finding no reversible error, we affirm the hearing officer's conclusion that claimant did not sustain a compensable injury. Given our affirmance of the hearing officer's determination that claimant did not sustain a compensable injury, we likewise affirm his determination that claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 N. ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge