

APPEAL NO. 020315  
FILED MARCH 21, 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 January 8, 2002. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_; that she did not timely report her alleged injury to her employer; and that she did not have disability within the meaning of the 1989 Act because she did not sustain a compensable injury. In her appeal, the claimant essentially argues that the hearing officer's injury, notice, and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on \_\_\_\_\_. The claimant asserts that she sustained injuries to both knees when she fell at work, landing on her hands and knees. Whether the claimant sustained the alleged injuries as a result of the work-related incident on \_\_\_\_\_, was a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 000074, decided February 25, 2000. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer could disbelieve the claimant's testimony and decide that the claimant did not sustain the claimed injuries in the fall. We have previously recognized that the fact that the incident occurred does not necessarily result in a determination that an injury occurred. Texas Workers' Compensation Commission Appeal No. 951547, decided October 30, 1995. Our review of the record does not reveal that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The question of whether the claimant timely reported her alleged injury to her employer was also a question of fact for the hearing officer. The hearing officer resolved the conflicts and inconsistencies in the evidence on the notice issue against the claimant. She was acting within her role as the fact finder in so doing. The hearing officer's notice determination is not so against the great weight of the evidence as to compel its reversal on appeal. Thus, the hearing officer properly determined that the carrier would be relieved of liability in this instance in accordance with Section 409.002, if the claimant had sustained a compensable injury.

Because we have affirmed the hearing officer's injury and notice determinations, we likewise affirm her determination that the 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).

The hearing officer's decision and order are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6<sup>TH</sup> STREET  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Edward Vilano  
Appeals Judge