

APPEAL NO. 020801
FILED MAY 13, 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 (CCH) was held on March 21, 2002. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) did not sustain a compensable injury on _____. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant had the burden to prove that she was injured in the course and scope of her employment. Conflicting evidence was presented at the CCH on the disputed issue. 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. With regard to the claimant's assertion that the hearing officer did not list her exhibits, we note that the hearing officer did list the five exhibits that were offered by the claimant and admitted into evidence. The hearing officer used the claimant's exhibit list to identify the exhibits. It was not necessary for the hearing officer to separately identify each document that was in each exhibit nor was it necessary for him to discuss each document in his decision. Although the MRI that was done after the date of the alleged injury showed a herniated lumbar disc, given the conflicting evidence on how and when the claimant may have injured her back, the hearing officer was not compelled to find that the claimant was injured at work lifting boxes, as claimed by the claimant. The trier of fact may believe that a claimant has an injury, but disbelieve that the injury occurred while performing work activities. We conclude that the hearing officer's decision is supported by sufficient evidence and that it 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 **LEGION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATE SERVICE COMPANY
1 COMMODORE PLAZA
800 BRAZOS, S-330
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge