

APPEAL NO. 021082  
FILED JUNE 10, 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 6, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease and that the claimant has not had disability. The claimant appealed, and the respondent (carrier) responded.

## DECISION

The hearing officer's decision is affirmed.

The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities as a medical records clerk. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that she sustained a repetitive trauma injury. Davis v. Employers Insurance of Wausau, 694 S.W.2d 105 (Tex. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.). The claimant also had the burden to prove that she had disability as defined by Section 401.011(16). The trier of fact may believe that a claimant has an injury, but disbelieve that the injury occurred as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ).

Conflicting evidence was presented at the CCH and the hearing officer made clear in her decision that she did not find the claimant's testimony credible. 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. A fact finder is not bound by the testimony of a medical witness where the credibility of that testimony is manifestly dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). We conclude that the hearing officer's decision that the claimant did not sustain a compensable injury in the form of an occupational disease is supported by sufficient evidence and 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). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision and order are affirmed.

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

**JOSEPH KELLY-GRAY, PRESIDENT  
6907 CAPITOL OF TEXAS HIGHWAY NORTH  
AUSTIN, TEXAS 78755.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Philip F. O'Neill  
Appeals Judge

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Roy L. Warren  
Appeals Judge