

APPEAL NO. 021901
FILED SEPTEMBER 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on June 24, 2002, with the record closing on June 28, 2002, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease; that the date of the claimed occupational disease injury is _____; and that the claimant did not have disability from the claimed injury. The claimant has appealed the adverse injury and disability determinations on evidentiary sufficiency grounds. The respondent (carrier) urges in response that the evidence is sufficient to support the challenged determinations. The hearing officer's determination that the date of the claimed occupational disease injury is _____, has not been appealed and has become final.

DECISION

Affirmed.

The claimant testified that over the course of some 15 years employment refurbishing electric motors, he was exposed to epoxy resin dust, varnish, and cleaning solvents which caused him to have a skin rash, initially "all over," but now mostly in the groin area. He also referred to some breathing difficulties. The claimant further stated that his dermatologist told him that he had severe contact dermatitis due to his job exposure to solvents but conceded that another dermatologist examined him and said "there's no way it's work related." He also said that he has not worked and earned wages since September 7, 2001, the day the employer told him to "go on home" after he had requested material safety data sheets on the chemicals to which he was exposed. The employer's president and the employer's shop foreman testified that the claimant routinely wore protective clothing and a mask when performing duties involving epoxy resin dust and solvents; that only some of the claimant's duties involved working with these substances; that the shop had passed an OSHA inspection which followed the claimant's complaint to that agency; and that it was their understanding that the claimant's skin problems resulted from poor personal hygiene.

The claimant had the burden to prove that he sustained the claimed injury and that he had disability as that term is defined in Section 401.011(16). Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The Appeals Panel has stated that in workers' compensation cases, the disputed issues of injury and disability can, generally, be established by the lay testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992. However, the testimony of a claimant, as an interested party, only raises issues of fact for the hearing officer to resolve and is not binding on the hearing officer. Texas Employers Insurance Association v. Burrell, 564 S.W.2d 133 (Tex. Civ. App.-Beaumont 1978, writ ref'd n.r.e.).

The evidence was in conflict regarding the cause of the claimant's skin condition. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). As an appellate reviewing tribunal, 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 so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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 SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica Lopez
Appeals Judge