

APPEAL NO. 021975
FILED SEPTEMBER 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 was held on June 26, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury while in the course and scope of employment on _____, and that he therefore did not have disability. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of his employment and that he had resulting disability. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's injury determination is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the determination that the claimant did not sustain a compensable injury on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, 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).

We affirm the decision and order of the hearing officer.

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

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge