

APPEAL NO. 022287  
FILED OCTOBER 16, 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 August 14, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on \_\_\_\_\_, and that because there was no compensable injury, the claimant did not have disability.

The claimant appeals, basically on the sufficiency of the evidence, contending that the hearing officer's decision is against the great weight and preponderance of the evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant testified that he sustained a low back injury trying to move an old copier machine at an off-site storage area prior to his normal working hours. In dispute is whether the claimant was even at the off-site storage area and whether the claimant injured himself moving the copier. The hearing officer, in his Statement of the Evidence, summarizes the testimony and some of the contradictions and inconsistencies in the evidence. The case turns largely on the credibility of the witnesses, particularly the claimant. The hearing officer makes clear that he did not find the claimant's testimony credible. Section 410.165(a) provides that the contested case hearing officer, as a finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order 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 SYSTEM  
350 NORTH ST. PAUL SUITE 2900  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge