

APPEAL NO. 022366
FILED OCTOBER 23, 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 26, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury; that the claimant did not sustain a compensable single-event injury on _____; that the claimant did not have disability resulting from the claimed injury (since there is no compensable injury there can be no disability); and that since the claimant did not sustain an injury as claimed, there is no injury to include the diagnosed condition of depression. The claimant appealed on sufficiency of the evidence grounds. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury, that the injury included depression, and that it resulted in 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, extent-of-injury, and disability determinations are supported by sufficient evidence and that they are 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 those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **A SELF-INSURED GOVERNMENTAL ENTITY** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Susan M. Kelley
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge