APPEAL NO. 022480
FILED NOVEMBER 18, 202

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 September 4, 2002. The hearing officer determined that (1) the respondent (claimant) sustained a compensable injury on _____; and (2) the claimant had disability beginning June 4, 2002, and continuing through the date of the hearing. The appellant (carrier) asserts error in each of those determinations. In his response, the claimant urges affirmance.

DECISION

Affirmed.

The carrier raises various arguments that the claimant was not in the course and scope of his employment at the time of his fall. The hearing officer rejected those arguments and determined that the claimant was in the course and scope of his employment at the time of his injury. After carefully reviewing the record, we cannot agree that the hearing officer erred in determining that the claimant was in the course and scope of his employment at the time of his fall. As such, we will not disturb that determination on appeal.

The carrier also contends that the claimant sustained a stroke, which caused his fall, and/or that the claimant's fall was idiopathic in nature and, therefore, not compensable. To answer each of those questions, the hearing officer was required to resolve conflicting evidence on whether the claimant had a stroke and whether he tripped over a potted plant as he testified or had an idiopathic fall. Under Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence and, as the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence including the medical evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence presented, we cannot conclude that the hearing officer=s determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, we will not disturb them on appeal.

The claimant attached new evidence to his response, which would support the hearing officer's injury determination. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. *See generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). The claimant did not show that the documents could not have been obtained prior to the hearing below. Thus, the evidence was not considered on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Robert W. Potts
Appeals Judge