

APPEAL NO. 022932
FILED JANUARY 7, 2003

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 October 14, 2002. With respect to the issue before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, includes depression but does not include blackouts/seizures. In his appeal, the claimant argues that the determination that his compensable injury does not include blackouts/seizures is against the great weight of the evidence. The claimant also raises several procedural errors in this appeal. The appeal file does not contain a response to the claimant's appeal from the respondent (carrier). In addition, the carrier did not appeal the determination that the compensable injury includes depression and that determination has, therefore, become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not include blackouts/seizures. That question presented a question of fact for the hearing officer to resolve. From the hearing officer's discussion it is apparent that she was not persuaded that the claimant sustained his burden of proving that his compensable injury included the blackouts/seizures and she was acting within her province as the fact finder in so finding. Our review of the record does not reveal that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In his appeal, the claimant argues that he was not given proper assistance by the ombudsman at the hearing. The claimant did not raise any objection to the ombudsman's assistance at the hearing and indeed, in response to questioning from the hearing officer, the claimant stated that he wanted to proceed at the hearing without an attorney and with the assistance of the ombudsman. In addition, after reviewing the record, we find no evidence of the ombudsman having been anything but completely competent in his assistance of the claimant. The claimant also argues on appeal, that he was denied "witnesses," "subpoenas," "depositions," and that he was advised that his wife's testimony at the hearing would be unnecessary. Again, the claimant did not raise any objection relating to these matters at the hearing, and, thus, he did not preserve any error for purposes of appeal. The claimant also argues that the peer review report from the carrier should not have been admitted in evidence. The claimant likewise did not object to the admission of this exhibit at the hearing and cannot be heard to complain about the admission of evidence for the first time on appeal. Finally, the claimant contends that the "hearing" was biased against him because the carrier

employed a rehabilitation counselor who formerly worked for the Texas Rehabilitation Commission and who “has many friends that work for the [Texas Workers' Compensation Commission].” Having reviewed the record, we find no evidence of any such bias.

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Daniel R. Barry
Appeals Judge