APPEAL NO. 022975
FILED DECEMBER 27, 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 October 31, 2002. With respect to the issues before him, the hearing officer determined that the claimant did not sustain a compensable injury; that date of the alleged injury was _____; that the claimant timely reported her alleged injury; and that she did not have disability. In her appeal, the appellant/cross-respondent (claimant) contends that the hearing officer's determinations that she did not sustain a compensable injury and that she did not have disability are against the great weight of the evidence. In its response to the claimant's appeal, the respondent/cross-appellant (carrier) urges affirmance. In its cross-appeal, the carrier asserts error in the hearing officer's date-of-injury and timely notice determinations. The claimant did not respond to the carrier's cross-appeal.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in determining that the claimant did not sustain her burden of proving that she sustained a compensable injury as a result of cooking and dipping buffalo chicken wings over a 5-hour period on _____. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse the injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability within the meaning of the 1989 Act. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

In its cross-appeal, the carrier argues that the hearing officer erred in determining that the date of the alleged injury was _____, and that the claimant timely reported her alleged injury to her employer. Those issues also presented questions of fact for the hearing officer. The hearing officer's determinations as to the date of injury and timely notice were supported by the claimant's testimony, which he was free to

accept as the fact finder. Those determinations are not so contrary to the overwhelming weight of the evidence as to compel their reversal on appeal. Cain, *supra*.

The hearing officer's decision and order are affirmed.

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

GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Edward Vilano
Appeals Judge