

APPEAL NO. 023064
FILED JANUARY 16, 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 (CCH) was held on November 7, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that the claimant has not had disability. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Conflicting evidence was presented at the CCH on the disputed issues. The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. While the hearing officer found that the claimant was in the course and scope of his employment when he was gathering his tools to leave the employer's premises after being terminated from employment, she further found that the claimant did not fall and did not injure any part of his body, and thus concluded that the claimant did not sustain a compensable injury. Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We do not find that the hearing officer committed reversible error in denying the claimant's request to take depositions on written questions and for a subpoena duces tecum. Section 410.158(a)(2) applies to the claimant's request to take the depositions of other witnesses (the request was not directed at a health care provider) and it provides for "depositions of other witnesses as permitted by the hearing officer for good cause shown." Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.12(b)(2) applies to the claimant's request for a subpoena and it provides that the Texas Workers' Compensation Commission may issue a subpoena "at the request of a party, if the hearing officer determines the party has good cause." The hearing officer determined that the claimant had not shown good cause for his request. In light of the information that the carrier exchanged with the claimant, we cannot conclude that the hearing officer abused her discretion in denying the claimant's request.

The hearing officer's decision and order are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge