

APPEAL NO. 030025
FILED FEBRUARY 11, 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 December 6, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability resulting from the claimed injury. The claimant appealed, essentially on sufficiency of the evidence grounds. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant testified that he injured his low back while trying to repair a hot tub while working for employer as chief maintenance engineer. The claimant had the burden to prove that he sustained a compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). 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). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, there was conflicting evidence on the issue of whether the claimant sustained a compensable injury. The hearing officer specifically found that “[d]uring the course and scope of his employment on _____, the Claimant did not injure his low back.” The hearing officer was acting within her province as the fact finder in so doing. Our review of the record does not demonstrate 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, *supra*; Cain, *supra*.

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

We affirm the decision and order of the hearing officer.

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

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge