

APPEAL NO. 030157  
FILED MARCH 6, 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 2, 2002. The hearing officer determined that the claimed injury did not occur while the respondent (claimant) was in a state of intoxication and that the appellant (carrier) did not waive its right to contest compensability of the claimant's injury. The carrier appeals the intoxication determination on sufficiency of the evidence grounds. The claimant responds, urging affirmance. The carrier waiver determination was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in reaching the complained-of determination. The determination involved 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence. While the evidence indicates that there was some level of alcohol present in the claimant's system after his injury as shown by tests done at the hospital, and this may be sufficient to shift the burden to the claimant to prove that he was not intoxicated at the time of the injury, the evidence is sufficient to support the hearing officer's determination that the claimant had the normal use of his physical and mental faculties, and that he was not intoxicated at the time of the injury. We can infer that the hearing officer knows and properly applies the law, even if he has not set forth in his decision the exact steps he followed in his analysis of the evidence. As an appellate-reviewing tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We are satisfied that the evidence sufficiently supports the hearing officer's decision in favor of the claimant on the intoxication issue and, consequently, the carrier is not relieved from liability for the compensable injury.

We affirm the decision and order of the hearing officer.

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.**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Edward Vilano  
Appeals Judge

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Daniel R. Barry  
Appeals Judge