

APPEAL NO. 030170
FILED FEBRUARY 18, 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 11, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, or have resulting disability; that the claimant did not give timely notice of the claimed injury to the employer; and that he did not timely file a claim for compensation. The claimant appeals this decision. The respondent (carrier) urges affirmance of the hearing officer's decision and order.

DECISION

Affirmed.

In determining whether the hearing officer's decision is sufficiently supported by the evidence, we will generally not consider evidence that was not submitted into the record and raised for the first time on appeal. Texas Workers' Compensation Commission Appeal No. 92255, decided July 27, 1992. To determine whether evidence offered for the first time on appeal requires that the case be remanded for further consideration, we consider whether it came to the appellant's knowledge after the hearing, whether it is cumulative, whether it was through lack of diligence that it was not offered at the hearing, and whether it is so material that it would probably produce a different result. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). We do not find that to be the case with the documents attached to the claimant's appeal, which were not admitted into evidence at the hearing. Consequently, we decline to consider this evidence on appeal.

The claimant asserts that the hearing officer erred in admitting unspecified carrier exhibits on the basis that the claimant "did not sign a release of authorization" for the carrier to obtain medical documents. The claimant did not object to the admission of any of the 10 carrier exhibits that were offered at the hearing and, therefore, has waived the right to complain about their admission on appeal.

The claimant complains on appeal, but points to nothing specific in the record, that the hearing officer exhibited bias against him at the hearing. Having reviewed the record in this case, we find no evidence substantiating the claimant's assertion of hearing officer bias.

The disputed issues in this case presented the hearing officer with factual questions for resolution. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. Nothing in our review of the record indicates that the hearing officer's decision is 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).

The hearing officer's decision and order is affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Terri Kay Oliver
Appeals Judge