

APPEAL NO. 030325
FILED MARCH 28, 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 January 22, 2003. The hearing officer determined that respondent (claimant) sustained a compensable injury on _____, and that she had disability from August 13 through September 19, 2002. Appellant (carrier) appealed these determinations on sufficiency grounds. Claimant responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Carrier contends that the hearing officer erred in not discussing or considering certain evidence. However, the hearing officer is not required to discuss all of the evidence considered. Carrier contends that the hearing officer chose to believe claimant's "less credible" testimony at the hearing over other evidence. However, the hearing officer was the sole judge of the credibility of the evidence and he resolved any conflicts in the evidence in this case. Texas Workers' Compensation Commission Appeal No. 992938, decided February 14, 2000.

Carrier contends that the hearing officer mischaracterized claimant's testimony in that the hearing officer said in the decision and order that the tote bag she was carrying was full of folders and work-related items. Carrier asserts that claimant said that she did not know what was in the tote bag. Claimant indicated that she performed a computer-related desk job. She indicated that it was her custom to carry work-related items in the tote bag, she just could not give an exact "inventory" of what had been in the tote bag that day. We conclude that the hearing officer made a reasonable inference from the evidence and we perceive no reversible error.

Carrier appears to argue that it is not responsible for the injury because claimant was in a weakened state due to her prior knee injury. However, the fact that claimant had a prior knee injury that may have produced a weakened condition leading to further injury would not preclude the hearing officer's finding of a compensable injury. An incident may indeed cause injury where there is preexisting infirmity where no injury might result in a sound employee, and a predisposing bodily infirmity will not preclude compensation. Sowell v. Travelers Insurance Company, 374 S.W.2d 412 (Tex. 1963). In any case, the hearing officer found that claimant fell because she tripped, not due to her weakened condition.

Carrier appears to contend that claimant was not in the course and scope of her employment at the time of the injury. Carrier asserts that the hearing officer incorrectly stated that claimant's injury occurred while she was performing a work-related function.

A fair reading of the hearing officer's decision shows that he used the term "performing a work related function" while distinguishing certain Appeals Panel cases. In any case, the claimant in the case before us was on employer's premises walking down the hallway when she was injured. She was clearly in the course and scope of her employment whether or not she was performing a "work-related function" at that precise moment. See *generally* Texas Workers' Compensation Commission Appeal No. 982796, decided January 14, 1999; Texas Workers' Compensation Commission Appeal No. 992765, decided January 24 2000.

Carrier's sole argument regarding disability is that claimant did not prove she sustained a compensable injury, so she could not have disability. Because we are affirming the determination that claimant sustained a compensable injury, we also affirm the disability determination.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not 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).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **NEW HAMPSHIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Roy L. Warren
Appeals Judge