

APPEAL NO. 030873
FILED MAY 19, 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 March 4, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain an injury in the course and scope of his employment on _____, and that the claimant has not had disability. The claimant appealed, and the respondent (carrier) responded.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he has had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issues. 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. Although the hearing officer was not persuaded that the claimant lifted the safety switch, if the claimant did in fact lift the safety switch, the hearing officer would still not have to find that the claimant's alleged back injury occurred at work in light of other evidence that was inconsistent with the claimant's claim that he sustained a back injury while working for the employer. Although there is conflicting evidence in this case, we conclude that the hearing officer's determination that the claimant did not sustain an injury in the course and scope of his employment is supported by sufficient evidence and 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). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

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

**ALBERT SCOTT TAYLOR, PRESIDENT
12225 GREENVILLE AVENUE, SUITE 490
DALLAS, TEXAS 75243.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret Turner
Appeals Judge