

APPEAL NO. 031068
FILED JUNE 9, 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 March 26, 2003. The hearing officer decided that the appellant (claimant) did not sustain a compensable injury on _____, and that because he sustained no injury, the claimant had no disability. The claimant appeals and the respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of employment and that he has had disability. Conflicting evidence was presented at the hearing. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Although the claimant argues the medical evidence he offered is unrefuted, a fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Our review of the record reveals that the hearing officer's injury and disability determinations are supported by sufficient evidence and are not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant also takes umbrage with the hearing officer's statement, "It is common knowledge the type of injuries the claimant has are usually sustained from a twisting motion." The claimant contends that such a statement has no evidentiary support and that the hearing officer lacks the medical expertise to draw such a conclusion. While we cannot agree with the hearing officer's inappropriate statement, the hearing officer is the finder of fact and is free to reject evidence, even if it is from medical care experts. See Daylin, Inc. v. Juarez, 766 S.W.2d 347 (Tex. App.-El Paso 1989, writ denied) (We will uphold the hearing officer's judgment if it can be sustained on any reasonable basis supported by the evidence).

We affirm the decision and order of the hearing officer.

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

**JOSEPH KELLY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge