

APPEAL NO. 031082
FILED MAY 27, 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 26, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease with a date of injury of _____, 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 an occupational disease as defined by Section 401.011(34) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH on the disputed issue of whether the claimant sustained an occupational disease. 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. We conclude that the hearing officer's decision that the claimant did not sustain a compensable injury in the form of an occupational disease 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).

The claimant contends that the hearing officer erred in excluding Claimant's Exhibit No. 10 from evidence. Since it was undisputed that the exhibit was not timely exchanged with the carrier and no good cause for failing to timely exchange the exhibit was offered, we conclude that the claimant has not shown error in the hearing officer's ruling excluding the exhibit based on the carrier's objection that it was never exchanged with the carrier.

We affirm the hearing officer's decision and order.

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

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge