

APPEAL NO. 031359
FILED JULY 10, 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 May 14, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury on _____, and that she did not have disability. The claimant appealed, essentially arguing with the manner in which the hearing officer gave weight to the evidence. The respondent (carrier) responded, urging affirmance.

DECISION

We affirm.

On appeal, the claimant quarrels with the manner in which the hearing officer gave weight to the evidence. The claimant asserts that the hearing officer gave undue weight to a document offered into evidence by the carrier, which was “not properly authenticated” and “could not be verified for its veracity or accurateness.” We note that the claimant failed to object to the document in question at the hearing and she has, therefore, waived any error in this regard. Further, the hearing officer was the sole judge of the weight to be given to this complained-of evidence. Section 410.165(a).

The claimant had the burden to prove that she was injured in the course and scope of her employment. There was conflicting evidence on this issue. 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 is work related as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). 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.). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Worker's Compensation Commission Appeal No. 950084, decided February 28, 1995. We conclude that the hearing officer's determination is supported by the record and is 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).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

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

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge