

APPEAL NO. 031416
FILED JULY 15, 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 9, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, nor at any other time while he was working for the employer, and that the claimant did not have disability. The claimant appeals, asserting that the credible evidence establishes that he sustained a compensable injury. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed, as reformed.

We first note that the Decision and Order identifies the issue in this case as: "Whether claimant sustained a compensable injury on (incorrect date of injury)?" That is incorrect. There were two issues in the case, and the asserted date of injury is incorrectly stated. We reform the Statement of the Case to reflect that the issues are:

1. Whether claimant sustained a compensable injury on _____?
2. Whether claimant had disability resulting from an injury sustained on _____, and if so, for what period?

Whether the claimant sustained a compensable injury and had disability are factual questions for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his decision 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 decision and order of the hearing officer, as reformed.

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

**FRED WERKENTHIN
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100 CONGRESS AVENUE, SUITE 1100
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge