

APPEAL NO. 031753
FILED AUGUST 7, 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 June 3, 2003. The hearing officer determined that the appellant (claimant) "was not injured in the course and scope of her employment on _____" (did not sustain a compensable injury), and that the claimant did not have disability.

The claimant appeals, contending that she did injure her back "pulling heavy shower doors" and that she has disability. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a prison guard, testified how she believed that she had injured her low back pulling on the heavy shower doors on _____. However, even the claimant admits that she felt no pain or discomfort at that time as it was only some hours later that she felt pain either getting up out of a chair or as she was walking. The claimant's notice of a work-related injury states "was walking and pain occurred." Medical records also indicate that the claimant had some complaints of low back pain prior to the alleged date of injury. The hearing officer commented that it was unlikely that the claimant's early medical providers would fail to record a history of a work-related injury when the injury required multiple "chiropractic and other medical treatment."

In any event, the evidence was in conflict whether the claimant sustained an injury as she alleged, had a preexisting injury, or the pain was due to unknown etiology which manifested itself while the claimant was walking. The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In that we are affirming the hearing officer's determination that the claimant did not sustain a compensable injury, the claimant, by definition in Section 401.011(16), cannot have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
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P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge