

APPEAL NO. 032065
FILED SEPTEMBER 22, 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 July 15, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that the claimant did not have disability as defined in Section 401.011(16).

The claimant appeals, basically contending that the hearing officer's decision is against the great weight of the evidence. The file does not contain a response from the carrier.

DECISION

Affirmed.

It is relatively undisputed that the claimant, a used car manager, was involved in moving a large heavy "key machine" on _____, and the key machine slipped on the dolly. The claimant alleges injuries to his low back, right shoulder, right knee, neck and "deltoid area." The carrier contends the claimant did not sustain any injury. It is undisputed that the claimant continued to work his regular duties until January 31, 2003, without seeking medical attention (although the claimant testified that he worked in pain). On January 31, 2003, either the claimant's employment was terminated or claimant resigned. The claimant subsequently saw a chiropractor who diagnosed assorted pains, strains, and sprains. There was conflicting evidence from several statements in evidence and the claimant's testimony. In the discussion portion of his Statement of the Evidence the hearing officer commented that he found the claimant "neither credible nor persuasive."

This case rests entirely on the credibility of the testimony and evidence. Whether the claimant sustained an injury as he alleged was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Nothing in our review of the record indicates that the hearing officer's decision is 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 that we are affirming the hearing officer's determination that the claimant did not sustain a compensable injury the claimant cannot, by definition, have disability.

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge