

APPEAL NO. 032202
FILED OCTOBER 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 (CCH) was held on July 24, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that he has not had disability. The claimant appeals, contending that his treating doctor noted that his injury was work related, and that the hearing officer was prejudiced. No response was received from the respondent (carrier).

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented on the issue of whether the claimant sustained a compensable injury. The treating doctor's opinion indicated that the claimant sustained an injury from performing his work activities whereas the carrier's peer review doctor provided a contrary opinion. 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. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision that the claimant did not sustain a compensable injury 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).

When the hearing officer gave the parties information regarding appeal procedures and the time limit for filing an appeal at the close of the CCH, he noted that the time period for the claimant to file an appeal would begin when the claimant, and not the claimant's attorney, received the hearing officer's decision. The claimant contends that since the hearing officer addressed the time period for the claimant to file an appeal, the hearing officer was prejudiced because this shows that he had already made up his mind regarding the resolution of the case before reviewing the CCH record. We do not agree with the claimant's assertion. We think that the hearing officer was simply trying to provide information regarding the time limit for filing an appeal so that if the decision went against the claimant, and the claimant wanted to file an appeal, he would do so on a timely basis. The hearing officer specifically noted in his closing comments that he would write his decision after he had read all of the exhibits and reviewed the notes he took during the CCH.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE 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.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge