

APPEAL NO. 032493
FILED NOVEMBER 5, 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 August 5, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that the respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified his employer of the claimed injury pursuant to Section 409.001. The claimant appeals the hearing officer's determination that he did not sustain a compensable injury, contending that the determination is against the great weight and preponderance of the evidence and that the evidence establishes that he sustained an injury in the course and scope of his employment. The carrier asserts that the evidence supports the appealed determination. The hearing officer's determination regarding timely notice of injury has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The claimant testified that he sustained injuries to his right knee and back when he fell from a rolling stool while examining a patient at work. The hearing officer noted that she did not find the claimant's testimony regarding certain discrepancies in the medical reports in evidence to be persuasive or credible.

The claimant had the burden to prove that he was injured in the course and scope of his employment. The 1989 Act makes the hearing officer 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 and inconsistencies in the evidence and decides what facts the evidence has established. The finder of fact may believe that the incident occurred, but disbelieve the claimant's testimony that the incident caused the claimed injury. A fact finder is not bound by evidence from a doctor 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.). The Appeals Panel will not disturb the challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Although there is conflicting evidence in this case, we conclude that the hearing officer's determination 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.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY 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:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge