

APPEAL NO. 032611
FILED NOVEMBER 20, 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 June 30, 2003, with (hearing officer 1) presiding as hearing officer. Because hearing officer 1 is no longer employed by the Texas Workers' Compensation Commission, the parties agreed that instead of conducting a second CCH, (hearing officer 2) would review the file and tape recording of the proceeding and issue a decision and order. Hearing officer 2 resolved the disputed issues by deciding that the appellant (claimant) had not sustained a compensable injury on _____, and that, because the claimant did not have a compensable injury, he did not have disability.

The claimant appealed, basically on sufficiency of the evidence grounds, emphasizing favorable evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, an electrician's helper, testified that on _____, he injured his low back helping lift a large spool of electrical wire. There was substantial testimony about the size of the wire and whether the crew was working with the large wire on _____. Two coworkers who were present at the time of the injury testified and another coworker gave somewhat inconsistent statements. The carrier, at the CCH, listed testimony and documentation which it believed were inconsistent or contradictory. The claimant, on appeal, complains that hearing officer 2 "does not make any statement or Findings of Fact which support a finding of no injury." Hearing officer 2's Finding of Fact No. 11 states that the "Claimant did not injure his low back while working...for this Employer on _____."

The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of hearing officer 2. 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).

We affirm the hearing officer's decision and order.

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

**CT CORPORATION
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge