

APPEAL NO. 033188
FILED FEBRUARY 2, 2004

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 22, 2003, and continued with the record closing on November 10, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease or otherwise on _____, or on any other relevant date, and that because the claimant did not sustain a compensable injury, she did not have disability. The claimant appealed, arguing that the hearing officer's injury and disability determinations are against the great weight and preponderance of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury in the form of an occupational disease on _____. The claimant had the burden of proof on the injury issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer was not persuaded by the claimant's testimony that she sustained a repetitive trauma injury as a result of her job duties. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability.

The hearing officer's decision and order are affirmed.

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

**PARKER RUSH
2001 BRYAN STREET, SUITE 3400
DALLAS, TEXAS 75201-3068.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge