

APPEAL NO. 033228
FILED FEBRUARY 6, 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 (CCH) was held on November 18, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that the claimant has not had disability. The claimant appeals, contending that the evidence establishes that he did sustain an injury in a work-related accident on _____. The respondent (carrier) asserts that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined in Section 401.011(10) and that he had disability as defined in Section 401.011(16). It is undisputed that a forklift driven by a coworker ran into the forklift driven by the claimant on _____. The question before the hearing officer was whether the claimant sustained an injury, that is, damage or harm to the physical structure of his body (see Section 401.011(26)) as a result of the forklift accident. Conflicting evidence was presented at the CCH with regard to whether the claimant sustained an injury. The hearing officer resolved the conflicts in the evidence by finding that the claimant did not sustain an injury in the course and scope of his employment, and concluded that the claimant did not sustain a compensable injury. 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 is supported by sufficient evidence and that it 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). The hearing officer did not err in determining that the claimant has not had disability because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge