

APPEAL NO. 033341
FILED FEBRUARY 5, 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 November 14, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury; the date of the claimed injury is _____; that the respondent (carrier) is not relieved from liability under Section 409.002, because the claimant timely reported the claimed injury on _____; and that because the claimant did not sustain a compensable injury, the claimant did not have resulting disability. The claimant appealed, disputing both the compensable injury and disability determinations on sufficiency of the evidence grounds. The carrier responded, arguing that the disputed determinations are fully supported by the evidence in the record and should be affirmed.

DECISION

Affirmed.

The claimant had the burden to prove that she was injured in the course and scope of her employment and that she had disability. Conflicting evidence was presented at the hearing. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Our review of the record reveals that the hearing officer's injury determination is supported by sufficient evidence and is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (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 determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a certified self-insured)** 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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge