APPEAL NO. 033363
FILED FEBRUARY 12, 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 December 4, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease from repetitive trauma as of _____, and that the claimant did not have disability. The claimant appealed, arguing that the great weight of the evidence is so contrary to the findings of the hearing officer that reversal is mandated. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant claimed that she sustained a repetitive trauma injury to her right upper extremity and cervical spine as a result of performing her work activities for the employer. An occupational disease includes a repetitive trauma injury, but does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease. Section 401.011(34). The claimant had the burden to prove that she sustained a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." In the instant case, the hearing officer found, among other things, that "From some unknown time through _____, the Claimant did not sustain sufficient trauma that arose out of and was in the course and scope of her employment to her right upper extremity or her cervical spine to cause an injury." The hearing officer concluded that the claimant did not sustain a compensable repetitive trauma 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. An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). We conclude that the hearing officer's decision 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. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the decision and order of the hearing officer.

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
COMMODORE ONE, 800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

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Thomas A. Knapp
Appeals Judge