

APPEAL NO. 040882
FILED JUNE 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 (CCH) was commenced on February 17 and concluded on March 18, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability.

The claimant appealed, principally on a sufficiency of the evidence basis, reiterating her position at the CCH. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, an accounts payable representative, testified that she felt a pop and immediately experienced back pain when she was picking up a bin of files on _____. Some seven witnesses (including the claimant) testified over two days and there were substantial inconsistencies and contradictions in the testimony. The carrier's position at the CCH was that the claimant had been suffering from a back ailment prior to the date of injury. The hearing officer noted one of the inconsistencies and concluded that the claimant's testimony was inconsistent with the injury occurring as described.

The claimant had the burden to prove that she sustained a compensable injury as defined in Section 401.011(10) and that she had disability as defined in Section 401.011(16). There was conflicting evidence presented on the disputed issues and the hearing officer resolved the conflicts in the evidence by finding 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. The factors emphasized by the claimant in challenging those determinations on appeal are the same factors she emphasized at the CCH. The significance, if any, of those factors was a matter for the hearing officer to determine in resolving the issues before her. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

**JOSEPH KELLY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica L. Ruberto
Appeals Judge