

APPEAL NO. 041935  
FILED SEPTEMBER 27, 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 July 12, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_; that the claimant's horseplay was not a producing cause of the claimed injury; and that the claimant has not had disability because he did not sustain a compensable injury. The claimant appeals the hearing officer's determinations that he did not sustain a compensable injury and that he has not had disability, contending that the hearing officer ignored the medical evidence and that the hearing officer clearly erred in finding against him. The respondent (carrier) asserts that the evidence supports the hearing officer's decision on the appealed issues of compensable injury and disability. There is no appeal of the hearing officer's determination on the horseplay issue.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). The hearing officer found that the claimant did not sustain an injury as a result of the fall at work on \_\_\_\_\_. Whether the claimant sustained an injury as defined by Section 401.011(26), that is, damage or harm to the physical structure of his body, when he fell off his chair, was a fact question for the hearing officer to resolve from the evidence presented. The hearing officer was not persuaded that the claimant proved he sustained an injury. Conflicting evidence was presented at the CCH. 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 hearing officer's decision reflects that she did consider the medical evidence. We conclude that the hearing officer's decision that the claimant did not sustain a compensable injury 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 hearing officer's decision and order.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**LEO MALO  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Daniel R. Barry  
Appeals Judge