

APPEAL NO. 041937
FILED SEPTEMBER 16, 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 July 14, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appealed the hearing officer's determinations based on sufficiency of the evidence grounds, and asserts that the interpreter inadequately interpreted his testimony. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We first address the issue of the adequacy of the interpreter. The claimant's argument regarding the inadequacy of the interpreter is based on the fact that the hearing officer did not find the claimant's testimony credible. Review of the record reflects that the hearing officer asked the interpreter if he was interpreting the claimant's answers properly and word-for-word. The interpreter responded that he was interpreting to the best of his ability, however, that it was difficult to interpret because the claimant was mumbling and talking over the interpretation. The hearing officer stated that she was satisfied with the interpretation, and she instructed the claimant to answer the questions clearly and in short sentences for a proper interpretation. We perceive no error.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____. The claimant had the burden of proof on the injury issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer found the claimant's testimony inconsistent regarding the date of injury, the mechanism of injury, the symptoms related to the claimed injury, and his employment history with the employer. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (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 hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

The hearing officer's decision and order are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge