

APPEAL NO. 043072
FILED JANUARY 14, 2005

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 June 29, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appealed, contending that the hearing officer erred in determining that he did not sustain a compensable injury and did not have disability, and also erred in not adding an issue of whether the carrier waived the right to contest compensability of the claimed injury. The respondent (carrier) responded. In Texas Workers' Compensation Commission Appeal No. 041830, decided September 13, 2004, the Appeals Panel reversed the hearing officer's decision and remanded the case to the hearing officer for the hearing officer to determine if good cause exists to add the issue of whether the carrier waived its right to contest compensability under Section 409.021. A CCH on remand was held on November 3, 2004. In his decision on remand, the hearing officer again determined that the claimant did not sustain a compensable injury on _____, and did not have disability, and also determined that there was no good cause to add the issue on carrier waiver. The claimant appeals the hearing officer's determinations on remand that he did not sustain a compensable injury, that he did not have disability, and that there was no good cause to add the issue of carrier waiver. The carrier responds, requesting affirmance.

DECISION

Affirmed.

The claimant has not shown that the hearing officer erred in determining that there was no good cause to add the carrier waiver issue. See Section 410.151(b) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.7(e) (Rule 142.7(e)). We conclude that the hearing officer did not abuse his discretion in finding that there was no good cause to add the carrier waiver issue.

Conflicting evidence was presented on the issue of whether the claimant sustained a compensable injury on _____. 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. We conclude that the hearing officer's determination 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). The hearing officer did not err in determining that the claimant has not had disability because, 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 on remand.

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

**TREVA DURHAM
1000 HERITAGE CENTER CIRCLE
ROUND ROCK, TEXAS 78664.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge