

APPEAL NO. 011026  
FILED JUNE 20, 2001

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 April 16, 2001. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury and therefore did not have disability. The claimant appeals these determinations on sufficiency of the evidence grounds. The respondent (self-insured) responded, urging that the hearing officer's determinations be affirmed.

DECISION

Affirmed.

Compensable Injury

The hearing officer did not err in determining that the claimant did not sustain a compensable mental trauma injury on \_\_\_\_\_. Since the claimant was claiming a mental trauma injury, he had the burden to prove that he sustained the claimed mental trauma injury in the course and scope of his employment. See Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. The claimant is a firefighter who fought a large grass fire at the (airport) on \_\_\_\_\_. He became involved in a threatening situation and was overcome by smoke and heat. He managed to get to safety, cool off, and return to fighting the fire for several more hours, although he felt weak and experienced stomach cramps. He saw a doctor that evening after he noticed blood in his stool. He saw his doctor again on October 12, 2000, and was admitted to the hospital for diagnostic tests. He testified that he had a "breakdown" on October 13, 2000. In his first discussion with a psychiatrist, Dr. B, the claimant attributed his depression and suicidal ideation to feelings of isolation he was having because he is unmarried, his nearest relative is 1,200 miles away, and he has no friends outside of work. There was no mention at that time of the fire being a cause of the claimant's depression. A March 23, 2001, letter from Dr. F, the claimant's treating psychiatrist, states that "[b]ecause of the fire [the claimant] had a resulting major depression and post traumatic stress disorder." The hearing officer commented that "the concurrent medical report of Dr. B is more credible." The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

## Disability

The hearing officer did not err in determining that the claimant did not have disability. The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

The decision and order of the hearing officer are affirmed.

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Michael B. McShane  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge