

APPEAL NO. 030385
FILED APRIL 1, 2003

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 January 13, 2003. The hearing officer resolved the disputed issues by deciding that the date of injury is _____, and that the appellant (claimant) timely reported her alleged injury to her employer but that the claimant did not sustain a compensable injury in the form of an occupational disease and had no disability. The claimant appeals the compensable injury and disability determinations, arguing that the hearing officer did not review all of the evidence and that the challenged determinations are in error. The appeal file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant contended that she sustained a repetitive trauma injury from performing her work activities taking care of plants and that she has had disability as a result of that injury. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she has had disability as defined by Section 401.011(16). There was conflicting evidence presented with regard to this issue. 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)). Although the hearing officer found the claimant credible, she was not persuaded that the evidence showed that the claimant was engaged in repetitive activity at work. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. 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 the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

We find no merit in claimant's assertion that the hearing officer failed to review all of the evidence. The hearing officer stated in the decision that she considered all of the evidence. We perceive no error.

We affirm the decision and order of the hearing officer.

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

**FRED WERKENTHIN
JACKSON WALKER LLP
100 CONGRESS AVENUE, SUITE 1100
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Roy L. Warren
Appeals Judge