

APPEAL NO. 000833

On April 3, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The hearing officer resolved the disputed issues by deciding that appellant (claimant) did not sustain a compensable injury on _____; that claimant has not had disability; and that respondent (self-insured) is not relieved of liability under Section 409.002. The hearing officer ordered that self-insured is not liable for benefits as a result of the alleged injury of _____. Claimant requests that the hearing officer's decision on the issues of compensable injury and disability be reversed and that a decision on those issues be rendered in her favor. Claimant also appeals the hearing officer's finding that she did not report the claimed injury of _____, within 30 days; however, contrary to self-insured's assertion, we do not read claimant's request for review to be an appeal of that portion of the hearing officer's decision that determines that self-insured is not relieved of liability under Section 409.002 because claimant had good cause for failing to report the injury within 30 days. Self-insured requests that the hearing officer's decision be affirmed on the issues of compensable injury and disability. Self-insured's response requests that the hearing officer's finding that claimant had good cause for failing to timely report her claimed injury to self-insured be reversed; however, although self-insured's response was timely filed as a response, it was not filed within the 15-day period for filing an appeal and, thus, its request for reversal of the good cause finding will not be considered. Self-insured received the hearing officer's decision on April 13, 2000, and filed its response (which included the request to reverse the good cause finding) more than 15 days later on May 2, 2000. Section 410.202(a); Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(a).

DECISION

Affirmed.

Compensable injury and disability are defined in Sections 401.011(10) and (16), respectively. Notice requirements to the employer are set forth in Section 409.001. Claimant testified that on _____, while performing her custodian job for self-insured, she injured her low back. Diagnostic testing was done and she was treated conservatively. Her doctor released her to return to work on December 10, 1998. Claimant testified that on _____, which was her first day back to work since her _____, injury, she felt pain in her neck and the entire left side of her body when she bent or stooped down to pick up paper she had swept up while performing her custodian job for self-insured. Claimant claims that she sustained a new injury on _____. In a June 1999 letter, self-insured's director of business services wrote that claimant was given a full-duty release on December 10, 1998; that she walked off the job on _____, after working less than two hours; and that claimant did not mention a new injury. Claimant said that she reported to her supervisor on _____, that she had pain in her neck and left side. Claimant has not worked since the claimed injury of _____. On January 5, 1999, the designated

doctor for the _____, injury certified that, with regard to the _____, injury, claimant reached maximum medical improvement on January 5, 1999, with a five percent impairment rating for a lumbar strain. April 1999 physical therapy reports state a date of injury of _____. A _____ work injury from bending over to pick up paper is first mentioned in a medical report of September 1999. Subsequent reports provide diagnoses of cervical, thoracic, and lumbar strains; left arm and left leg paraesthesias; and reflex sympathetic dystrophy.

The hearing officer found that claimant did not sustain a new injury on _____, while working for self-insured and that claimant's inability to work from December 15, 1998, through the date of the CCH is not the result of a compensable injury on _____. The hearing officer concluded that claimant did not sustain a compensable injury on _____, and that she did not have disability. The finding of no disability relates to the claimed injury of _____. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. We conclude that the hearing officer's decision that claimant did not sustain a compensable injury on _____, and that she did not have disability is supported by sufficient evidence and is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. There was conflicting evidence as to whether claimant reported her claimed injury of _____, to self-insured within 30 days and we conclude that the hearing officer's finding that it was not reported within 30 days is supported by sufficient evidence. We do not address the hearing officer's determination that self-insured is not relieved of liability under Section 409.002 because claimant had good cause for failing to report the injury within 30 days. Since we are affirming the hearing officer's decision that claimant did not sustain a compensable injury on _____, self-insured is not liable for workers' compensation benefits for that claimed injury.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge