

APPEAL NO. 010397

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 January 25, 2001. The hearing officer determined that the appellant/cross-respondent (claimant) sustained an injury on _____; that the respondent/cross-appellant (carrier) is relieved of liability because the claimant failed to timely notify the employer of an injury pursuant to Section 409.001; and that the claimant did not have disability.

The claimant appeals, contending that he reported an injury to his neck and back and that he both reported his injury and that the employer had "actual knowledge" of his injury (a point not pursued at the CCH). The carrier responded to the claimant's appeal and also filed a timely appeal asserting that the claimant had not sustained an injury.

DECISION

Affirmed.

The claimant was employed by a newspaper and testified that on _____, he slipped on some water and fell to the floor, injuring his back and neck. It is undisputed that the claimant reported his slip and fall to RM, a supervisor, on either October 20 or 21 and that RM completed an accident report. Exactly what was said is in dispute. The accident report was subsequently "put in a file that required no medical attention." The claimant continued to work his regular work, without further complaint (the claimant testified that he attempted "to work through it") until he was terminated for absenteeism (the claimant had previously been warned) on November 12, 1999.

The claimant first saw a doctor on December 20, 1999, giving a history of the slip and fall. The claimant was diagnosed with a cervical and lumbar strain. MRIs performed on December 29, 1999, were normal. The claimant's wife called the employer sometime in January 2000 and reported that the claimant had injured himself on _____, and needed help paying the medical bills. The claimant was subsequently released from medical care by that doctor due to noncompliance. The claimant received no other medical treatment until July 18, 2000, when he was directed to another doctor by "some sort of counselor" who provided assistance in getting workers' compensation benefits.

There is some conflict between the hearing officer's Statement of the Evidence that the claimant reported to RM that he "got hurt," and the hearing officer's finding of fact that the claimant's report to RM "did not report in such a way that [RM] would have received notice that Claimant was hurt or that there had been an injury." We hold the hearing officer's decision to be supported by the evidence and not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

Accordingly, the hearing officer's decision and order on all issues are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge