

## APPEAL NO. 010638

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 February 27, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained an injury in the course and scope of his employment on \_\_\_\_\_, and that he timely reported the injury to his employer, so the appellant (carrier) is not relieved of liability. The hearing officer also resolved that the claimant had disability from September 15, 2000, to November 30, 2000. The carrier appeals and seeks reversal based on sufficiency of the evidence. There is not a response on file from the claimant.

### DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on \_\_\_\_\_, and was subsequently disabled from September 15, 2000, to November 30, 2000. The claimant alleged to have seriously injured his low back while lifting a large pipe on a work-site \_\_\_\_\_. Testimonial and documentary evidence on the record supports the hearing officer's findings and conclusions on these issues, including the claimant's testimony. The carrier introduced evidence, including the testimony of the employer and some medical records, to the effect that the claimant never timely reported a specific date of injury or a specific mechanism of injury.

The hearing officer did not err in concluding that the "Claimant timely reported his injury so Carrier is not relieved of liability for this claim under Section 409.002 of [the 1989 Act]. Again, the claimant introduced evidence, including two notes written to his employer, one dated August 11, 2000, and the other established to have been received August 5, 2000, showing that, prior to the 30th day after his alleged date of injury, the claimant notified the employer of his accident and of his intention to file a workers' compensation claim. The carrier introduced evidence, including the testimony of the employer, that the claimant did not timely report his injury, that it occurred over a long period of time, and that he had seen a chiropractor for his low back just eight months prior to his stated date of injury.

The parties presented conflicting evidence on the disputed issues. Pursuant to Section 410.165(a) of the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will

not disrupt the contested 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. 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). We do not find them so here.

Finally, we observe that the hearing officer is clearly referencing another claim in his "statement of the evidence." However, neither party complained of the language therein and the evidence, findings of fact, and conclusions of law are definitely related to this claim. Therefore, whatever misprint in the statement of the evidence, it was clerical error and not substantive or dispositive to the issues here.

For these reasons, we affirm the hearing officer's decision and order.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge