

APPEAL NO. 010825

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 March 22, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) was injured in the course and scope of her employment on _____; that the respondent (carrier) is relieved of liability under Section 409.002; and that the claimant has not had disability. The claimant appealed the hearing officer's decision that the carrier is relieved of liability under Section 409.002, because of untimely notice of injury, and the carrier responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant did not have good cause for failing to notify her employer of her work-related injury of _____, which included a rib and back injury, until August 25, 2000, and that the carrier is relieved of liability under Section 409.002. The 30-day notice provision is in Section 409.001 and the good cause provision for failing to give timely notice is in Section 409.002. The hearing officer determined that any good cause the claimant had for not reporting the injury ended on August 9, 2000, when the claimant said that she was diagnosed as having fractured ribs and a low back sprain. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision that the carrier is relieved of liability under Section 409.002 is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge