

APPEAL NO. 011622
FILED AUGUST 20, 2001

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 June 19, 2001. The hearing officer determined that the appellant/cross-respondent (claimant) sustained an injury to his foot in the course and scope of employment on _____, and was unable to obtain and retain employment due to this injury for the period from January 22 through February 7, 2001, but did not timely notify his employer of his injury and had no good cause for the failure to do so.

Both parties have appealed. The claimant argues that the requirements of timely notice were met not only by reporting of the injury to supervisory personnel, but by personal observance of the accident by the supervisor. The claimant also argues that his inability to work from the injury did not end on February 7, 2001, as found by the hearing officer. The respondent/cross-appellant (carrier) responds that the record supports these findings. The carrier appeals the findings that claimant sustained an injury and had any disability. The claimant responds that there is no basis for reversal of these findings of fact.

DECISION

We affirm the hearing officer's decision on all appealed points.

The evidence was clearly in conflict on all appealed and cross-appealed issues. The claimant and the supervisor testified in direct opposition to each other. There was evidence on both sides of each issue that was to be evaluated and weighed by the hearing officer as the sole judge of the weight, credibility, materiality, and relevance of the evidence. Section 410.165. However, the arguments made by both parties suggest that some evidence was completely credible while opposing evidence was not. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). 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). Accordingly, we affirm the decision and order.

The true corporate name of the insurance carrier is **American Home Assurance Company** and the name and address of its registered agent for service of process is

**Corporation Service Company
800 Brazos, Suite 750
Commodore 1 Austin, Texas 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge