

APPEAL NO. 011643  
FILED AUGUST 21, 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 22, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury to his left foot; that the claimant had disability from July 21, 2000, through March 1, 2001; and that the claimant timely notified his employer of his injury pursuant to Section 409.001.

The appellant (carrier) appealed all the issues, asserting that the claimant had not sustained a compensable injury; that he had no disability; and that the claimant's report of an injury was to a secretary and not a "supervisor or management personnel." The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a laborer on a construction site and testified that on the evening of \_\_\_\_\_, when he got home, he noticed his foot was bloody and that a nail had gone through the sole of his boot and punctured his foot. The claimant testified that the next day, he was going to work, but his car broke down and that he called the employer's office to tell them about the car and reported the injury to Ms. L. The claimant had been a diabetic for a number of years and eventually the wound became infected and required surgery. The claimant was hospitalized from August 14 through August 29, 2000. The testimony was conflicting as to when the claimant was able to return to work.

The evidence is in dispute whether the claimant sustained the puncture wound at work or elsewhere; whether the claimant only reported a car breakdown to Ms. L; whether Ms. L, who was identified in some testimony as the officer manager, was a person "who holds a supervisory or management position" within the meaning of Section 409.001(b); and when the claimant was able to return to work. All those determinations were questions of fact for the hearing officer to resolve.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. 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.). The Appeals Panel will not disturb the challenged factual 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 and we do not find

them so in this case. 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).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(insurance carrier)** and the name and address of its registered agent for service of process is

**(Corporation)**  
**(Address)**  
**(City), Texas 75201**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge