

APPEAL NO. 011691  
FILED AUGUST 30, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on July 2, 2001. The hearing officer determined that the appellant (claimant) failed to give timely notice of his injury to the employer, that he did not have good cause for not providing timely notice, and that he did not have disability. The claimant has appealed these determinations and contends, as he did at the hearing, that his evidence met his burden of proof. The respondent (carrier) has filed a response urging the sufficiency of the evidence to support the challenged findings.

DECISION

Affirmed.

The hearing officer did not err in reaching the challenged determinations. The claimant, who was employed as the dietary manager in a seniors living facility, testified that he injured his neck and shoulder at work on \_\_\_\_\_, while struggling to open a five-gallon bucket of pickles. He said he reported the injury that week to Ms. J, the bookkeeper, but that he could not more precisely identify the date of that notice. The claimant further stated that he assumed Ms. J was "on the management team" because of her duties and interactions with other employees; that Ms. J said she would "take care of it," referring to his injury report; and that he assumed she did so and did nothing further about giving notice until August 11, 2000, when he notified Ms. D, the manager, of the injury. The evidence was in conflict concerning whether Ms. J occupied a supervisory or managerial position with both the latter and Ms. D stating that she did not. The claimant also testified that he worked until late August 2000 when he resigned to care for his wife and undergo an angioplasty.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), and, as the trier of fact, 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)). The Appeals Panel, an appellate reviewing tribunal, 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. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (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 corporate name of the insurance carrier is **RELIANCE NATIONAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL ST.  
DALLAS, TEXAS 75201.**

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Phillip F. O'Neill  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge