

APPEAL NO. 011826
FILED SEPTEMBER 14, 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 28, 2001. With respect to the issues before him, the hearing officer determined that while the appellant/cross-respondent claimant suffered an "incident" at work _____, and timely notified her employer thereof, she did not sustain a compensable injury on that date and, consequently, had no resultant disability. The claimant appealed on sufficiency grounds. The respondent/cross-appellant (carrier) conditionally appealed the findings and conclusions that the claimant suffered an "incident" at work _____, and that she notified her employer within thirty (30) days of that incident. In addition, the carrier responded to claimant's appeal and argued that the evidence was sufficient to support the hearing officer's determinations of no compensable injury and no disability.

DECISION

Affirmed.

Initially, we will address the carrier's assertion that the claimant's appeal is untimely. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Texas Government Code in the computation of the 15-day appeal period. In this instance, the hearing officer's decision and order was distributed to the parties on July 13, 2001. Pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), the claimant was deemed to have received the hearing officer's decision on July 18, 2001, five days after it was mailed. Based on that date of receipt, the 15-day deadline for mailing the appeal was August 8, 2001, and the 20-day deadline for the Commission to receive the appeal was August 15, 2001. The claimant's appeal is postmarked August 3, 2001, and was received by the Commission on August 6, 2001, and it is, therefore, timely.

Carrier also alleges that the claimant's request for review fails to invoke the jurisdiction of the Appeals Panel because it fails to state grounds for review. Carrier argues that such a request for review does not meet the requirements of Section 410.202(c) and Rule 143.3(a)(2). No particular form of appeal is required and an appeal, even though terse or inartfully worded, will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993. Generally, appeals which lack specificity will be treated as attacks on the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. We consider the claimant's appeal an attack on the sufficiency of the evidence supporting the hearing officer's resolution of the only two interrelated issues upon which her decision was adverse to claimant--the issues of injury and disability.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). There was conflicting evidence on the injury issue. The hearing officer resolved the conflicts and inconsistencies in the evidence against the claimant, and he was acting within his role as fact finder in determining that the claimant did not sustain her burden of proving injury. Nothing in our review of the record indicates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the hearing officer's determination that she did not have disability. "Disability" means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Thus, the existence of a compensable injury is a prerequisite to a finding of disability.

Further, we affirm the hearing officer's determinations that some "incident" occurred at work on _____, causing the claimant to experience pain, and that the claimant informed the employer about the incident within 30 days of _____. Evidence in the record supports the hearing officer's findings and conclusions on these matters, including the testimony of the claimant and her managers. Nothing in our review of the record indicates that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** 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.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge