

APPEAL NO. 011948
FILED SEPTEMBER 25, 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 July 18, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease with a date of injury of _____; that the claimant failed, without good cause, to timely notify her employer of her injury; and that the claimant has not had disability. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

Conflicting evidence was presented on the disputed issues of whether the claimant sustained a compensable injury in the form of an occupational disease with a date of injury of _____, and whether the claimant timely reported the injury to the employer under Section 409.001. The claimant had the burden to prove that she was injured in the course and scope of her employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The claimant also had the burden to prove that she timely reported her claimed injury to her employer. Travelers Insurance Company v. Miller, 390 S.W.2d 284 (Tex. Civ. App.-El Paso 1965, no writ). A claimant who fails to give timely notice of injury to her employer has the burden to show good cause for such failure. Aetna Casualty & Surety Company v. Brown, 463 S.W.2d 473 (Tex. Civ. App.-Fort Worth 1971, writ ref'd n.r.e.). 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 adverse to the claimant on the issues of compensable injury and notice to the employer are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Without a compensable injury, the claimant would not have disability as defined by Section 401.001(16). Thus the hearing officer did not err in determining that the claimant has not had disability as a result of her claimed injury of _____.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C.T. CORPORATION SYSTEM
350 N. ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge