

APPEAL NO. 012379  
FILED NOVEMBER 30, 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 September 17, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and that the appellant (self-insured) is not relieved of liability under Section 409.002 because the claimant timely notified the self-insured of his injury under Section 409.001. The self-insured appealed the hearing officer's determinations on the disputed issues. No response was received from the claimant.

## DECISION

The hearing officer's decision is affirmed.

### COMPENSABLE INJURY ISSUE

The hearing officer did not err in determining that the claimant sustained a compensable injury on \_\_\_\_\_. Section 401.011(10) defines the term "compensable injury." The claimant had the burden to prove that he was injured in the course and scope of employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented on the disputed issue of whether the claimant sustained a compensable injury. The hearing officer resolved the conflicts in the evidence and found that the claimant sustained damage or harm to the physical structure of his body in the course and scope of his employment on \_\_\_\_\_, and concluded that the claimant sustained a compensable injury on \_\_\_\_\_. As a general rule, in workers' compensation cases the issue of injury may be established by the testimony of the claimant alone. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, 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. The hearing officer's decision that the claimant sustained a compensable injury is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

### TIMELY NOTICE ISSUE

The hearing office did not err in determining that the claimant timely reported his injury to the self-insured. Notice of injury must be given to the employer not later than 30 days after the date of the injury. Section 409.001(a). Notice of the injury may be given to the employer or to an employee of the employer who holds a supervisory or management position. Section 409.001(b). The claimant had the burden to prove that he timely reported his injury to his employer. Travelers Insurance Company v. Miller, 390 S.W.2d

284 (Tex. Civ. App.-El Paso 1965, no writ). The claimant's testimony reflected that he gave timely notice of his claimed work-related injury to the self-insured. Contrary evidence was introduced by the self-insured. The hearing officer resolved the conflicts in the evidence and determined that the self-insured is not relieved of liability because the claimant timely reported the injury to the self-insured. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS, COMMODORE 1, SUITE 750  
AUSTIN, TEXAS 78701**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge