

APPEAL NO. 012410
FILED NOVEMBER 8, 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 May 4, 2001, with the record closing on September 10, 2001. The hearing officer resolved the disputed issues before her by determining that the appellant (claimant) did not sustain a compensable injury, either in the form of an occupational disease, or as a result of a specific incident on _____, and that he did not have disability. The hearing officer additionally determined that the respondent (carrier) is not relieved of liability under Section 409.002, because the claimant did timely notify his employer of his claimed injury. The claimant appealed the determinations as to injury and disability on sufficiency grounds. The carrier responded, urging affirmance. The issue of timely notification was not appealed and that determination has become final. Section 410.169.

DECISION

Affirmed.

The claimant worked as an electrician, and described his duties as heavy construction. It is undisputed that the claimant sustained a compensable injury to his lower back on _____. The claimant asserts that the _____, compensable injury completely resolved, although he could not specifically state when, and that he was able to do his job until he sustained a new back injury on _____. The carrier submitted medical evidence which tends to show that the claimant's _____, injury never fully resolved. The claimant was unable to give specific answers to the majority of the carrier's questions regarding his condition after the _____, injury.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury and that he did not have disability. The hearing officer makes clear that she did not find the claimant's testimony persuasive. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). There was conflicting evidence presented on the issues of injury and disability. The hearing officer resolved the conflicts and inconsistencies in the evidence against the claimant and she was acting within her role as the fact finder in determining that the claimant did not sustain his burden of proof on either issue. 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. Accordingly, no sound basis exists for us to disturb those determinations 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**GARY SUDOL
ZURICH NORTH AMERICA
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge