

APPEAL NO. 012459
FILED NOVEMBER 26, 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 (CCH) was originally held on June 28, 2001. The Appeals Panel, in Texas Workers' Compensation Commission Appeal No. 011732, decided August 29, 2001, reversed and remanded the case for complete information concerning the respondent's (carrier) agent for service of process pursuant to amendment to Section 410.164(c). The required information was obtained and admitted into evidence as Hearing Officer's Exhibit A and sent to the appellant (claimant) by certified mail on September 20, 2001. The hearing officer then reissued her decision. With regard to the issues before her, the hearing officer determined the following:

1. The claimant did not sustain an injury while in the course and scope of employment on or about _____;
2. The claimant did not timely report an injury to the employer; and
3. The claimant did not have disability.

The claimant appealed the hearing officer's determinations. The carrier urges affirmance.

DECISION

Affirmed.

The claimant testified through a translator that he was injured at work when he moved a drill collar and felt a pop or crack to his back (at the CCH, the claimant pointed and the hearing officer wrote "just below the base of the back of his neck") on _____. The claimant testified in that he continued to work the rest of the day and the next four months thereafter, doing the same type of heavy work of lifting and pulling rods and bars. In early _____, the claimant informed the drilling rig "pusher" that he had sustained a work-related injury and that he was going to seek medical treatment for his back. The claimant testified that in February 2001 he sought massage treatments from a woman to relieve his back pain. The claimant also testified that he received massage treatments from a chiropractor, Dr. T, and that he was diagnosed with a cervical sprain. In early March 2001, the claimant testified that he went on a trip to visit his daughter and seek medical treatment for his back. On March 19, 2001, upon the claimant's return from his trip, the claimant was informed that he had been terminated from his employment. On March 23, 2001, the claimant filed a Texas workers' compensation claim with a date of injury of _____. On May 10, 2001, the claimant amended his claim to a date of injury of _____. The claimant was not employed from March 14, 2001, to the date of the CCH, June 28, 2001.

The evidence sufficiently supports the hearing officer's determinations that the claimant did not sustain an injury in the course and scope of employment on or about _____; that the claimant did not timely report an injury to the employer, and that the claimant did not have disability. (Sections 401.011(10), 409.001, and 401.011(16).) It is the hearing officer, as the sole judge of the weight and credibility of the evidence (Section 410.165(a)), who 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)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The Appeals Panel 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. Cain v. Bain, 709 S.W.2d 175, 176 (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 true corporate name of the insurance carrier is **FINANCIAL INSURANCE COMPANY OF AMERICA** and the name and address of its registered agent for service of process is

**ALBERT SCOTT TAYLOR, PRESIDENT
12225 GREENVILLE AVENUE, SUITE 490
DALLAS, TEXAS 75243.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge