

APPEAL NO. 020034
FILED FEBRUARY 12, 2002

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 November 20, 2001. The hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable injury in a motor vehicle accident on or about _____; and (2) the respondent/cross-appellant (carrier) is not relieved of liability for this claim under § 409.002 because the claimant timely notified his employer of the claimed injury. The claimant appeals the hearing officer's injury determination on sufficiency grounds. The carrier filed a condition cross-appeal of the hearing officer's notice determination. There was no response from the claimant to the carrier's cross-appeal.

DECISION

Affirmed.

COMPENSABLE INJURY

The hearing officer did not err in determining that the claimant did not sustain a compensable injury in the motor vehicle accident on or about _____. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The claimant requests reversal of the hearing officer's decision because it addresses an injury "on or about _____," when the issue presented concerned an injury on _____. We note that the benefit review conference report contains conflicting dates of injury. The first page of the report provides a date of _____, while the certified issue provides a date of _____. At the hearing, the claimant offered evidence with regard to an injury on _____, and at no time was this date disputed by either party. We further note that the hearing officer's findings of fact correctly reference the claimed injury date of _____. Under the circumstances, we view the hearing officer's determination that the claimant did not sustain a compensable injury on or about _____, as addressing and including the _____ date of injury.

NOTICE

The carrier's appeal on this issue is, essentially, conditioned upon the success of the claimant's argument with regard to compensable injury. Given our affirmance of the injury determination, we need not address the notice determination.

The decision and order of the hearing officer are affirmed.

The true corporate name of the carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Edward Vilano
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge