

APPEAL NO. 021370
FILED JULY 16, 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 (CCH) was held on April 29, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury; that the appellant (carrier) is not relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer under Section 409.001; that the claimant is not barred from pursuing Texas workers' compensation benefits because of an election to receive benefits under a group health insurance policy; and that the claimant had disability beginning on October 14, 2001, and continuing through the date of the CCH. The carrier appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant responds, urging affirmance. The election of benefits determination was not appealed by either party and has become final. Section 410.169.

DECISION

Affirmed.

All of the issues in this case presented factual questions for the hearing officer to resolve. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. We have reviewed the complained-of determinations and conclude that the issues involved factual questions for the hearing officer to resolve. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

In addition, the carrier contends that the hearing officer committed reversible error because she did not "fairly and accurately" summarize the evidence. The statement of the evidence contains a brief statement that even though all of the evidence presented was not discussed, it was considered. The Appeals Panel stated that the 1989 Act does not require that the Decision and Order of the hearing officer include a statement of the evidence and that omitting some of the evidence from a statement of the evidence did not result in error. Texas Workers' Compensation Commission Appeal No. 000138, decided March 8, 2000, *citing* Texas Workers' Compensation Commission Appeal No. 94121, decided March 11, 1994. The failure to summarize all of the evidence in the Decision and Order does not indicate reversible error.

The hearing officer's decision and order are affirmed.

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

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge