

APPEAL NO. 021623  
FILED AUGUST 13, 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 June 11, 2002, with the record closing on June 13, 2002. The hearing officer resolved the dispute issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury, with a date of injury of \_\_\_\_\_, and thus did not have disability therefrom. In addition, the hearing officer determined that the respondent (carrier) was relieved from liability under Section 409.002 due to the claimant's failure to timely notify her employer pursuant to Section 409.001. The claimant appealed on sufficiency grounds, and there was no response from the carrier.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury, with a date of injury of \_\_\_\_\_. The hearing officer determined that the claimant failed to prove both that her job, assembling vacuum cleaners, required repetitive and traumatic use of her thoracic spine and that her work caused an aggravation of her preexisting thoracic spine injury.

The hearing officer did not err in determining that the carrier was relieved from liability under Section 409.002 due to the claimant's failure to timely notify her employer pursuant to Section 409.001. While the hearing officer found that the claimant reported her injury March 13, 2002, that was not within 30 days of when she knew or should have known that her injury may be work-related, \_\_\_\_\_, and had no good cause for failing to timely report her injury. The claimant first saw a physician for her alleged injury in either late November or early December 2001, and brought in an "off-work" slip in early December 2001, claiming that that slip was her report of her \_\_\_\_\_, injury. However, the hearing officer believed that the "off-work" slip did not specify that the injury was work related and that the "work-related" aspect of the claimant's injury was not reported until March 2002.

The hearing officer is the sole judge of the weight and the credibility to be given the evidence. Section 410.165(a). The hearing officer resolved the disputed issues in the carrier's favor. While the claimant argued a different interpretation of the evidence, we conclude that the hearing officer's determinations are supported by the evidence, and that they are not 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, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

As we affirm the hearing officer regarding the noncompensability of the claimant's injury, we likewise affirm her disability determination. As a matter of law, the claimant must have sustained a compensable injury in order to have resultant disability. See, Section 401.011(16).

The hearing officer's decision and order are affirmed.

The official name of the carrier is **TEXAS BUILDERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT SIDONS  
11612 RM 2244, BUILDING 1, SUITE 200  
AUSTIN, TEXAS 78733.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge