

APPEAL NO. 021817
FILED AUGUST 22, 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 June 24, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. In addition, the hearing officer determined, had there been an injury, the respondent (self-insured) was relieved of liability because the claimant failed to timely report his alleged injury pursuant to Section 409.001. The claimant appealed on sufficiency grounds, and the self-insured responded, requesting affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury to his back on _____. The claimant, who was working as a court services officer, testified that he hurt his back when he tripped while climbing up the stairs at work. The self-insured argued that the claimant was not credible and that he knew he was about to be let go because his employer discovered his criminal record for theft. The hearing officer did not find the claimant credible. The self-insured also argued that the claimant was not credible and that he was filing this claim as retribution.

The hearing officer did not err in determining that the self-insured was relieved of liability pursuant to Section 409.002, due to the claimant's failure to timely notify his employer pursuant to Section 409.001. There was conflicting testimony regarding both the alleged date of injury and when the claimant reported the injury. The hearing officer determined that if the claimant's alleged injury occurred _____, then his February 4, 2002, date of reporting his injury to his employer was not within 30 days of his date of injury, and he had no good cause for his failure to report the injury after that 30 days. See Section 409.001.

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 self-insured'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.

Because we affirm the hearing officer's compensability determination, we likewise affirm his disability determination. As a matter of law, the claimant must have a compensable injury in order to have disability. See Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**COUNTY JUDGE
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge