

APPEAL NO. 022434
FILED NOVEMBER 14, 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 August 20, 2002. The hearing officer determined that the respondent/cross-appellant (claimant) sustained a compensable low back specific injury (herniated disc) on _____; that the claimant did not sustain a repetitive trauma injury to the cervical spine or the low back; that the date of injury was _____; that the appellant/cross-respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely reported his injury to his supervisor; that the carrier is not relieved of liability under Section 409.004 because the claimant timely filed his claim for compensation; that the claimant is not barred from receiving workers' compensation benefits because of a knowing election of remedies; and that the claimant had disability starting July 26, 2001, and continuing as of the date of the CCH. The carrier appeals the findings that the claimant timely reported his injury; that the claimant had disability; that the claimant was off work due to his other medical conditions as well as due to his compensable injury; and that the claimant's low back injury would have kept him from working even during the periods that he was also off work for his other medical conditions. The carrier also appeals the conclusions that the claimant had a compensable injury; that he timely reported the injury; that he timely filed a claim for compensation; and that the claimant had disability for the stated period. The claimant appeals the determination that his cervical problem is not related to the compensable injury or to repetitive trauma. The carrier responded to the claimant's appeal, urging affirmance of the determinations concerning the cervical area. The claimant responded to the carrier's appeal, urging affirmance of the injury, timely notice, timely filing, and disability determinations. The determination pertaining to election of remedies was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The issues presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no

sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance 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.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge