

APPEAL NO. 022641
FILED NOVEMBER 27, 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 September 16, 2002. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____; that the claimant had not timely reported the injury to his employer and did not have good cause for failing to do so; and that the claimant has not had disability.

The claimant appealed, basically reiterating his testimony that he has sustained a compensable injury "throwing a strap over a load," that he reported the injury two days later to his supervisor, and his continuing efforts to get treatment. The carrier responds, urging affirmance.

DECISION

Affirmed.

The claimant, a truck driver and former supervisor, testified that he injured his right shoulder throwing a strap over a load on Saturday, _____. In evidence is a statement supporting the claimant's testimony, but it is not clear whether that person actually witnessed the purported incident or was just stating what the claimant told him. The claimant testified that he reported the injury to his supervisor on Monday, (two days later), which is denied by the supervisor. The claimant did not see a doctor until January 24, 2002. The employer acknowledges notice of the alleged of injury on January 24, 2002. The claimant's employment was apparently terminated on January 28, 2002. The hearing officer commented that the claimant "is not credible that he sustained the injury as alleged."

The case turns entirely on the credibility of the witnesses and presented questions 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). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

**CINDY GHALIBAF
7610 STEMMONS FREEWAY
DALLAS, TEXAS 75247.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge