

APPEAL NO. 023028
FILED JANUARY 16, 2003

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 October 28, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant did not timely report her injury to her employer in accordance with Section 409.001, without good cause for her failure to do so; and that the claimant did not have disability because she did not sustain a compensable injury. In her appeal, the claimant essentially challenges those determinations as being against the great weight of the evidence. The appeal file does not contain a response to the claimant's appeal from the respondent (self-insured).

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury and that she did not timely report her injury to her employer or have good cause for her failure to do so. The claimant had the burden of proof on both issues. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The injury and notice issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

In this instance, there was conflicting evidence on the issue of whether the claimant sustained a compensable injury and whether she had good cause for failing to report her injury to her employer within the 30-day period provided for doing so in Section 409.001. The hearing officer determined that the claimant did not sustain her burden of proving that she sustained a compensable injury or that she had good cause for giving untimely notice of her injury to her employer. The hearing officer specifically noted that the claimant's "'sudden realization' on June 8, 2002, that the furniture moving incident was the cause of her low back problems was no more than mere speculation on her part." The hearing officer was acting within his province as the fact finder in so finding. Our review of the record does not demonstrate that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or

manifestly unjust; therefore, no sound basis exists for us to reverse those determinations on appeal. Pool, *supra*; Cain, *supra*.

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that she did not have disability.

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

**CHAIRMAN OF THE BOARD
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge