

APPEAL NO. 023122
FILED JANUARY 27, 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 November 8, 2002. With respect to the issues before him, the hearing officer determined that the respondent/cross-appellant (claimant) sustained a repetitive trauma injury with a date of injury of _____, in the course and scope of his employment; that he was unable to obtain and retain employment at wages equivalent to his preinjury wage from April 25, 2002, through the date of the hearing; and that the appellant/cross-respondent (carrier) is relieved of liability for compensation pursuant to Section 409.002 because the claimant did not timely report his injury in accordance with Section 409.001. In its appeal, the carrier contends that the hearing officer's injury and disability determinations are against the great weight of the evidence. The claimant did not respond to the carrier's appeal. In his cross-appeal, the claimant contends that the hearing officer's determination that he did not timely report his injury to his employer is against the great weight of the evidence. The carrier did not respond to the claimant's cross-appeal.

DECISION

Affirmed.

The hearing officer did not err in making his injury and disability determinations. Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's injury and disability determinations are supported by the claimant's testimony and the medical evidence from Dr. M, Dr. W, and Dr. H. Nothing in our review of the record reveals that the injury and disability determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The issue of whether the claimant timely reported his injury in accordance with Section 409.001 also presented a question of fact for the hearing officer. The claimant maintained that he reported his injury to his supervisor, Mr. B, on February 21, 2002. However, in his handwritten statement, Mr. B denies that the claimant reported his injury to him. Similarly, Ms. L, the employer's human resources manager, testified that the employer did not learn that the claimant was alleging a work-related carpal tunnel syndrome injury until April 2002. The hearing officer was acting within his province as the fact finder in giving more weight to the testimony and evidence demonstrating that the claimant did not timely report his injury to his employer. The notice determination is

not so against the great weight of the evidence as to compel its reversal on appeal. Cain, supra.

The hearing officer's determinations that the claimant sustained an injury in the course and scope of his employment and that he was unable to obtain and retain employment at his preinjury wage as a result of his injury from April 25, 2002, through the date of the injury are affirmed. The hearing officer's determination that the claimant did not timely report his injury to the employer is likewise affirmed. Thus, the determination that the carrier is relieved of liability for benefits pursuant to Section 409.002 is also affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge