

APPEAL NO. 030169  
FILED MARCH 10, 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 January 2, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable mental trauma injury on or about \_\_\_\_\_; that the respondent self-insured (carrier) is not relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001; and that because the claimant did not sustain a compensable mental trauma injury, the claimant does not have disability. The claimant appealed the compensability and disability determinations on grounds of sufficiency of the evidence. The timely notice determination was not appealed. The appeal file did not contain a response from the carrier.

DECISION

Affirmed.

The claimant testified that she was employed as the director of a victim advocacy center and that she had a mental breakdown after learning that the local district attorney was calling statewide organizations to attempt to get the claimant fired. The claimant testified that her problems with the district attorney began earlier in the year. The evidence reflected that the claimant suffered mental stress from multiple stressors which were not work related and the hearing officer specifically found that "the claimant did not suffer a work related single event which resulted in a work related mental trauma injury."

While a specific stressful incident of sufficient magnitude occurring on the job can result in a compensable mental trauma injury, repetitive mentally traumatic activity or stressful events do not constitute a compensable injury. Texas Workers' Compensation Commission Appeal No. 981423, decided August 10, 1998; Texas Workers' Compensation Commission Appeal No. 950011, decided February 15, 1995. Whether an activity or incident amounts to a specific traumatic event which causes a subsequent mental condition is a question of fact for the hearing officer to decide from all the evidence before him or her. Appeal No. 981423, *supra*. Furthermore, Section 408.006(b) provides that a mental trauma injury that arises principally from a legitimate personnel action involving demotion or termination "is not a compensable injury." The hearing officer specifically found that the claimant's stress was "due to multiple work related legitimate personnel actions." There was evidence that the district attorney had unbridled discretion to appoint the crime victims' coordinator and that the advocacy center where the claimant worked would not have a function to perform if it did not serve as crime victims' coordinator. The fact that the district attorney was not the claimant's supervisor is not material as the district attorney was attempting to achieve the claimant's employment termination.

The claimant had the burden to prove that she sustained a compensable mental trauma injury. The disputed issues involved factual determinations to be made by the hearing officer. 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. We conclude that the hearing officer's determinations are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **self-insured through the Texas Association of Counties Workers' Compensation Self-Insurance Fund** and the name and address of its registered agent for service of process is

**EXECUTIVE DIRECTOR  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge