

APPEAL NO. 030596
FILED APRIL 15, 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 February 6, 2003. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant did not timely report his alleged injury to his employer; and that he did not have disability because he did not sustain a compensable injury. In his appeal, the claimant argues that the hearing officer's injury, notice, and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on _____, and that he did not timely report his alleged injury to his employer. The claimant had the burden of proof on those 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 as a result of an electrical shock at work and whether and when he reported his alleged injury to his employer. The hearing officer determined that the credible evidence did not establish that the claimant sustained a compensable injury or that he timely reported his injury to his employer. The hearing officer simply was not persuaded that the claimant sustained his burden of proof on the injury and notice issues. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record demonstrates 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 the injury determination 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 and did not timely report his alleged injury, the hearing officer properly concluded that he did not have disability.

In his appeal, the claimant asserts that “the evidence was not improperly admitted.” The exact nature of this argument is unclear; however, we note that all of the exhibits offered by the claimant in evidence at the hearing were admitted without objection. In addition, we note that the claimant did not object to any of the nine exhibits offered by the carrier. Thus, the claimant did not preserve any error associated with the admission of the carrier’s exhibits for purposes of appeal.

The hearing officer’s decision and order are affirmed.

The true corporate name of the insurance carrier is **FIREMAN’S FUND INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER
1999 BRYAN STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Terri Kay Oliver
Appeals Judge