

APPEAL NO. 030813
FILED MAY 12, 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 (CCH) was held on March 4, 2003. The hearing officer determined that the appellant (claimant) did not sustain either a repetitive trauma or specific incident compensable injury on _____, and that the claimant had not timely reported his injury to the employer pursuant to Section 409.001.

The claimant appealed, basically reiterating his testimony from the CCH that he had sustained a compensable injury and had reported it within two weeks of the date of injury. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant, a forklift driver, testified that he sustained a right knee injury operating a particular type of forklift (a "picker"). In evidence is a video, which shows the picker being used and there was considerable testimony regarding how the "jerking" motion allegedly injured the claimant's right knee (the claimant had previously injured his left knee in an unrelated incident). There was considerable confusion whether the claimant was asserting that a specific jerk injured his knee or whether it was a repetitive trauma injury from a number of jerking movements. The claimant generally testified that he informed his supervisors of his injury within two weeks, although it could be understood that his complaints were regarding the left knee. The hearing officer commented that the claimant "simply did not present a preponderance of credible evidence to support his claims of compensability and timely reporting."

The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

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

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge