

APPEAL NO. 031186  
FILED JUNE 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on April 21, 2003. In (Docket No. 1) the hearing officer determined that the appellant's (claimant) (date of injury for Docket No. 1), compensable injury does not include an injury to the cervical spine consisting of C3-4 bilateral lateral recess and neural foraminal stenosis, C5-6 large posterior left paracentral spur causing moderate cord impingement left lateral recess and left neural foraminal stenosis, and C6-7 posterior left paracentral disc herniation causing moderate cord impingement and left lateral recess and left neural foraminal stenosis along with mild right neural foraminal stenosis. The claimant appealed on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance. In (Docket No. 2) the hearing officer determined that the claimant sustained an injury in the form of a contusion to the head on (date of injury for Docket No. 2), but that the injury is not compensable because the carrier is relieved from liability under Section 409.002 due to the fact that the claimant did not timely notify his employer pursuant to Section 409.001 and did not have good cause for failing to do so. The claimant appealed the hearing officer's determination that the carrier is relieved from liability, asserting that he did timely notify his employer of the injury. The carrier responded, urging affirmance. The hearing officer's determination that the claimant sustained an injury on (date of injury for Docket No. 2), has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on (date of injury for Docket No. 1), when he struck his head on a metal beam. The claimant testified that he received active treatment for that injury until approximately October of 2000. The claimant testified that he stopped treatment for that injury because his condition had not improved and continued to worsen. He stated that he felt the situation was hopeless. The claimant testified that he continued to work after the (date of injury for Docket No. 1), injury even though he was in pain. On (date of injury for Docket No. 2), the claimant testified that he again struck his head in the course and scope of his employment when he lost his balance while going down some stairs. It was the claimant's position that he lost his balance due to the continuing symptoms from the (date of injury for Docket No. 1), compensable injury. The claimant testified that he was uncertain when he reported the second injury to his employer, but he felt it was around the same time he filed for short-term disability. A note from the claimant's treating doctor indicates that the short-term disability paperwork was filled out on February 13, 2002. Both the claimant and the carrier presented medical records to support their respective positions.

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The disputed issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge