APPEAL NO. 031210
FILED JULY 2, 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 April 11, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified his employer pursuant to Section 409.001; and that the claimant had disability from October 30, 2002, through the date of the hearing. The carrier appealed the timely notice (and thereby the compensability) and disability issues. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant was employed as a truck driver by (Company V). The claimant testified that his job consisted of delivering cookies to various locations for a company called (Company B). The claimant further testified that the cab of the truck he drove had the name Company B on it, and that the trailers he hauled sometimes had Company V and sometimes had Company B on them. At the hearing, the claimant stated repeatedly that he believed Company V and Company B were one and the same, and acknowledged that his paychecks came from Company V. The claimant testified that in February of 2002, he sustained a work-related injury when he twisted his ankle; that he contacted "Pete" at Company V to report the injury; that "Pete" directed him to contact "A.J." whom the claimant described as his dispatcher/supervisor at Company B; that "A.J." referred the claimant to "T" at a different Company B location; that "T" filled out the necessary paperwork; and that the claimant received workers' compensation benefits from the carrier. In evidence is a photocopy of a card, which the claimant stated was given to all of the drivers with contact numbers. The card is from Company B and directs that all "Breakdowns, Delays, Accidents, Emergencies-MUST BE REPORTED TO DISPATCH." "A.J.'s" name and number appears on the card.

On _____, the claimant testified that he began to feel pain in his lower back while unloading a shipment of cookies. The claimant testified that he called and reported the injury to "A.J." on July 10 or 11, 2002. The claimant stated that he thought the pain would go away and continued to work until the end of October 2002, when the pain became too severe. The claimant testified that he has been unable to work from October 30, 2002, through the date of the hearing.

On appeal, the carrier contends that since "A.J." is not an employee of Company V, the claimant has failed to timely notify the employer of the claimed injury. The hearing officer determined that the claimant timely reported his injury by contacting "A.J." on July 11, 2002. The hearing officer reached this determination because the

claimant reported the injury to the same person to whom "P" had directed him to report his February 2002, compensable injury. In DeAnda v. Home Insurance Company, 618 S.W. 2d. 529, 533 (Tex. 1980), the Texas Supreme Court stated that the rule of liberal construction should be applied and that "the term 'employer' in the statute should be accorded a broad interpretation." The Court went on to recognize that notice of an injury is sufficient if it is given to an agent designated by the employer to receive such information. In the instant case, the claimant had previously been directed by an employee of Company V to report a work-related injury to the same employee of Company B to whom he reported the injury which makes the basis of this claim. Under the facts of this case we cannot say that the hearing officer's determination that the claimant timely reported the injury to his employer is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier additionally challenges the hearing officer's injury and disability determinations. We have reviewed the complained-of determinations and find that they are supported by sufficient evidence to be affirmed. The disputed issues presented questions of fact for the hearing officer. 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, *supra.*

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **LUMBERMANS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Veronica Lopez-Ruberto
Appeals Judge