

APPEAL NO. 031333
FILED JUNE 25, 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 May 5, 2003. The hearing officer resolved the disputed issues by deciding that the date of injury is _____; that the respondent (carrier) is relieved of liability under Section 409.002 because the claimant failed to timely notify his employer of his injury pursuant to Section 409.001; and that because the carrier is relieved of liability, the claimant did not sustain a compensable injury and did not have disability. The claimant appealed, contending that he proved that he sustained a compensable injury. The carrier responded, requesting affirmance.

DECISION

Affirmed.

It is clear from the hearing officer's Findings of Fact Nos. 2 and 4 that she found that the claimant injured his left knee in the course and scope of his employment on _____. However, the hearing officer determined that the injury is not compensable because the claimant failed to timely notify his employer of his injury. Section 409.001(a) provides that an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the injury occurs. Section 409.002 provides that failure to notify an employer as required by Section 409.001(a) relieves the employer and the employer's insurance carrier of liability unless the employer or the carrier has actual knowledge of the employee's injury; the Texas Workers' Compensation Commission determines that good cause exists for failure to provide notice in a timely manner; or the employer or the carrier does not contest the claim.

The hearing officer determined that the claimant did not inform a supervisor that he had sustained a work-related injury on _____, until September 10, 2002, and that good cause for failing to timely report the injury within 30 days of the date the injury occurred did not extend to September 10, 2002. The hearing officer determined that the carrier is relieved of liability under Section 409.002. 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. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is 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 (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.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge