

APPEAL NO. 031405
FILED JULY 11, 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 March 18 and April 23, 2003. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury; (2) the date of the alleged injury is _____; (3) the claimant did not have disability; and (4) the respondent (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified his employer of an injury pursuant to Section 409.001. The claimant appeals the injury and disability determinations on legal and sufficiency of the evidence grounds. The carrier urges affirmance. The date of injury and notice determinations were not appealed and are, therefore, final. Section 410.169.

DECISION

Affirmed as reformed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury and did not have disability. The determinations involved 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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 claimant asserts that the hearing officer erred in considering the carrier's arguments that the claimant suffered from a "pre-existing condition" or an "ordinary disease of life," because such arguments were not specifically raised in the carrier's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21). Even if carrier had been limited to the defenses stated in its TWCC-21, we note that the carrier disputed that an injury occurred in the "course and scope of employment" and the hearing officer found that "the claimant's employment did not require repetitive, physically traumatic activities with his lower back." Accordingly, we perceive no legal error.

Although not raised by the parties, we reform the hearing officer's decision to reflect the parties' stipulation that venue was proper in the (City) Field Office of the Texas Workers' Compensation Commission and that the hearing was, in fact, held in the (City) Field Office.

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

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge