

APPEAL NO. 031515
FILED JULY 23, 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 6, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that she had disability from _____ to April 8, 2001, and from April 12, 2001, through the date of the hearing; and that the appellant (carrier) waived the right to contest compensability of the claimed injury by not contesting it within 7 days after receiving written notice of the injury. The carrier appeals these determinations. The claimant urges affirmance of the hearing officer's decision and order.

DECISION

Affirmed.

Whether the claimant sustained a compensable injury and had disability were factual questions for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. Injury and disability determinations can be established by the claimant's testimony alone, if believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). Nothing in our review of the record reveals that the hearing officer's compensability and disability 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 (Tex. 1986).

The evidence reflects that the carrier received written notice of the claimant's injury on April 6, 2001, and that it disputed the claim on April 19, 2001. The carrier argues that it did not waive the right to contest compensability of the claimed injury because it disputed the injury on the date that benefits would have begun to accrue in this particular case. However, Section 409.021(a) requires that a carrier act to initiate benefits or to dispute compensability within seven days of first receiving written notice of an injury or waive its right to dispute compensability. See Continental Casualty Company v. Downs, 81 S.W.3d 803 (Tex. 2002); Texas Workers' Compensation Commission Appeal No. 030380-s, decided April 10, 2003. Accordingly, we perceive no error in the hearing officer's resolution of the waiver issue.

The decision and order of the hearing officer are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge