

APPEAL NO. 031523
FILED JULY 28, 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 15, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and did not have disability.

The claimant appealed, basically on sufficiency of the evidence grounds, emphasizing his testimony and the treating doctor's report. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a construction worker, testified that he sustained a right inguinal hernia on _____, moving some concrete. Whether he was moving concrete, or a heavy door as first reported, and whether and to whom the claimant may have reported an injury is in dispute. The claimant continued to work his regular employment until May 11, 2001, when his employment was terminated for reasons unrelated to his alleged injury. The claimant first sought medical attention from the treating chiropractor who diagnosed the inguinal hernia on _____. The carrier asserts that the employer first received notice of the injury when called by the doctor's office.

The claimant in a workers' compensation case has the burden to prove, by a preponderance of the evidence, that he sustained a compensable injury in the course and scope of employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The evidence was clearly in conflict and it is the hearing officer, as the sole judge of the weight and credibility of the evidence, that resolves the conflicts and inconsistencies in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer's determinations on the issues of injury and disability are supported by the evidence.

We have reviewed the complained-of determinations and conclude that the hearing officer's determinations are not 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).

Accordingly, we affirm the hearing officer's decision and order.

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

**CINDY GHALIBAF
7610 STEMMONS FREEWAY, SUITE 350
DALLAS, TEXAS 75247.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge