

APPEAL NO. 031735
FILED AUGUST 20, 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 (CCH) was held on June 4, 2003. The hearing officer resolved the disputed issues by deciding that: (1) the respondent (claimant) sustained a compensable injury in the form of an occupational disease on _____; (2) the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified his employer pursuant to Section 409.001; and (3) the claimant had disability from _____, and continuing through the date of the CCH. The carrier appealed the hearing officer's injury and disability determinations based on sufficiency of the evidence grounds, and asserted that the hearing officer "did not fairly and accurately" summarize the evidence. The appeal file does not contain a response from the claimant. The hearing officer's notice determination was not appealed and therefore it has become final pursuant to Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury in the form of an occupational disease as defined in Section 401.011(34) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues. 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. The carrier essentially argues that the medical evidence is insufficient to support a causal connection with the claimant's asthma and his work for the employer because his "actual exposure and work history is less extensive" than what the claimant contends. The hearing officer reviewed the evidence and was persuaded by both Dr. G and the claimant's testimonies that the claimant's asthma was work related due to the exposure to welding smoke and other irritant materials. The hearing officer specifically found that on _____, the claimant did sustain damage or harm to the physical structure of his body in the form of an occupational disease, to wit: occupational asthma and that the claimant had disability from _____, through the date of the CCH. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are 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).

The carrier contends that the hearing officer did not fairly and accurately summarize the evidence. A hearing officer is not required to recite the facts since the 1989 Act only requires findings of fact, conclusions of law, whether benefits are due, and an award of benefits due. Texas Workers' Compensation Commission Appeal No.

93791, decided October 18, 1993. A statement of evidence, if made, only needs to reasonably reflect the record. Each area that the hearing officer addressed in the Statement of the Evidence is supported in the record. The Statement of the Evidence reasonably reflects the evidence of record in this case.

We affirm the hearing officer's decision and order.

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 SYSTEM
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Veronica Lopez-Ruberto
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge