

APPEAL NO. 031835
FILED SEPTEMBER 2, 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 June 12, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the claimant is not barred from pursuing workers' compensation benefits because of an election to receive benefits through a third-party liability carrier; that the appellant (self-insured) waived the right to contest compensability of the claimed injury by not timely contesting it in accordance with Sections 409.021 and 409.022; and that the self-insured is not relieved from liability because of the claimant's failure to timely file a claim for compensation with the Texas Workers' Compensation Commission as required by Section 409.003. The self-insured appeals the determinations relating to waiver, election of remedies and timely filing a claim for compensation. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

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. The hearing officer determined that the self-insured received written notice of the injury on May 8, 2002, and did not dispute compensability until December 13, 2002. Because there was no indication that the self-insured either took action to initiate benefits or disputed the claim within 7 days of May 8, 2002, we cannot agree that the hearing officer erred in concluding that the self-insured waived the right to contest compensability of the claimed injury. By waiving its right to contest compensability of the injury, the self-insured lost its right to assert the election-of-remedies defense (Texas Worker's Compensation Commission Appeal No. 030793-s, decided May 16, 2003) and the right to assert a defense under 409.004, relating to timely filing a claim for compensation (Texas Workers' Compensation Commission Appeal No. 022091-s, decided October 7, 2002).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier (self-insured) is **(self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge