

APPEAL NO. 032808
FILED DECEMBER 12, 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 October 2, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on (date of injury); that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant timely reported the injury to his employer on April 4, 2003; and that the claimant had disability beginning April 14, 2003, and continuing through the date of the CCH. The carrier appealed the hearing officer's determinations, contending that they are not supported by sufficient evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10), that he had disability as defined by Section 401.011(16), and that he gave timely notice of an injury to the employer in accordance with Section 409.001(a). 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. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues of compensable injury, disability, and timely notice of injury are supported by sufficient evidence and 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).

With regard to the notice issue, we note that the evidence reflects that the claimant was initially confused regarding the date he was injured and that it appears that he provided a wrong date of injury to the employer; however, the hearing officer found that the claimant reported to his supervisor on April 4, 2003, that he had injured his right shoulder on the job. Since April 4, 2003, is within 30 days of the actual date of injury, (date of injury), we cannot conclude that the hearing officer erred as a matter of law in determining that timely notice of injury was given to the employer. See Section 409.001(a). As noted by the court in DeAnda v. Home Insurance Company, 618 S.W.2d 529 (Tex. 1980), to fulfill the purpose of the statutory notice provision, the employer need only know the general nature of the injury and the fact that it is job related.

We affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge