

APPEAL NO. 033146
FILED JANUARY 23, 2004

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 November 3, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant has not had disability; and that the respondent (carrier) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer of his alleged injury pursuant to Section 409.001. The claimant appeals the hearing officer's injury, notice, and disability determinations as being against the great weight of the evidence. The appeal file does not contain a response from the carrier.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he timely reported his alleged injury to his employer. Those issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Conflicting evidence was presented on the injury and notice issues. As the finder of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established. The hearing officer found that the claimant failed to prove that he sustained an injury in the course and scope of his employment on _____, or that he timely reported his alleged injury to his employer and she was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determinations are so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Thus, no sound basis exists for us to disturb the injury and notice determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

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

**RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge