

APPEAL NO. 033208
FILED FEBRUARY 2, 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 August 12, 2003. The following issues were before the hearing officer: (1) Did the respondent (claimant) sustain a compensable injury; (2) What is the date of injury; (3) Is the appellant (carrier) relieved from liability under Section 409.002, because of the claimant's failure to timely notify the employer of an injury pursuant to Section 409.001; and (4) Did the claimant have disability resulting from the claimed injury, and if so, for what period? The hearing officer determined that: (1) the claimant asserted two injuries with separate dates of injury; and (2) a remand to the benefit review conference level was appropriate, so an additional claim can be established and the issues further developed. In Texas Workers' Compensation Commission Appeal No. 032302, decided October 22, 2003, we reversed and remanded the hearing officer's decision for resolution of the issues presented. On remand, the hearing officer determined that: (1) the claimant sustained a compensable injury; (2) the date of injury is _____; (3) the carrier is not relieved from liability under Section 409.002, because the claimant timely notified his employer of an injury pursuant to Section 409.001; and (4) the claimant had disability, resulting from the compensable injury sustained on _____, for the period beginning on April 18, 2003, and continuing through the date of the hearing. The carrier appeals these determinations on sufficiency of the evidence grounds. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge