

APPEAL NO. 033222
FILED FEBRUARY 5, 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 (CCH) was scheduled for September 9, 2003, but was continued to and held on November 3, 2003. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on _____; that he had disability beginning January 24, 2003, and continuing through the date of the CCH; and that the appellant (carrier) is not relieved from liability under Section 409.002, because the claimant timely reported his injury to his employer. The carrier appealed, arguing that the determinations of the hearing officer are contrary to the great weight and preponderance of the 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, that he had disability as defined by Section 401.011(16), and that he gave timely notice of injury to his employer pursuant to Section 409.001. The claimant testified that he was helping a coworker lift an old sign when he felt his back pop and experienced severe back pain. Conflicting evidence was presented on the disputed issues at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer was persuaded that the claimant met his burden of proof on all three issues and noted that the material aspects of the claimant's assertions were corroborated by another witness. 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 that the claimant did sustain a compensable injury on _____; that he timely notified his employer pursuant to Section 409.001; and that he had disability beginning January 24, 2003, and continuing through the date of the CCH 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).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge