

APPEAL NO. 033223
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 was held on November 14, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____ (all dates are 2003 unless otherwise noted); that the claimant did not have disability; that the claimant did not give timely notice of her claimed injury to the employer pursuant to Section 409.001, and did not have good cause for failing to do so; and that the claimant was not barred from pursuing workers' compensation benefits pursuant to an election of remedies. The election-of-remedies determination has not been appealed and has become final pursuant to Section 410.169.

The claimant appeals the injury, disability, and timely notice determinations on a sufficiency of the evidence basis. There is no response from the respondent (carrier) in the appeal file.

DECISION

Affirmed.

The claimant, a stocker, testified that she sustained a compensable low back injury taking down a shelf when she fell backward on the floor on _____. The claimant said that she did not immediately report the incident because she was working a skeleton shift and that she went home and self treated her back. Although the claimant testified that she reported her work-related injury to several supervisors on Tuesday, March 11, that testimony is disputed in written statements. The claimant sought medical attention on Monday, March 10 but the initial reports are conflicting with the treating doctor initially reciting worsening back pain "x 2 yrs." Similarly, off-work slips do not reference a work-related injury and leave of absence forms (LOA) are marked to indicate no for "workers comp." The treating doctor subsequently indicates that the claimant did state a work-related accident and the claimant asserts that she was "inattentive" in marking the LOA forms.

Very clearly the testimony and medical evidence were in conflict in regard to the disputed issues and we hold that the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE 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.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge