

APPEAL NO. 033314
FILED FEBRUARY 12, 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 19, 2003. The hearing officer determined that: (1) the appellant (claimant) sustained a compensable injury on _____; (2) the claimed injury did not occur while the claimant was in a state of intoxication, as defined in Section 401.013, and the respondent (carrier) is not relieved from liability; (3) the carrier waived the right to dispute compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021; and (4) the claimant has not had disability. The claimant appeals the disability determination and the underlying findings of fact concerning the nature of the compensable injury. The carrier urges affirmance. The hearing officer's compensable injury, intoxication, and waiver determinations were not appealed and have become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant has not had disability. The claimant appears to argue that the hearing officer failed to consider the totality of his injuries when determining disability. The hearing officer found that the claimant sustained contusion injuries to his shoulders and chest when a truck, under which he was working, tilted onto him. The claimant contends that he was diagnosed with a chest wall contusion, contusion to the shoulder region, shoulder sprain/strain, and sternoclavicular injury. We note that the issue of extent of injury was not before the hearing officer and was not actually litigated. Because the full extent of the compensable injury has not yet been determined, we read the hearing officer's decision as addressing the period of disability which resulted only from the contusion injuries to the claimant's shoulders and chest. In view of the evidence presented, we cannot conclude that such determination is 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 for the reasons discussed above.

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

**CT CORPORATION SYSTEMS
350 NORTH SAINT PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge