

APPEAL NO. 040906
FILED MAY 27, 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 March 22, 2004. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease; (2) the date of the claimed injury is _____; (3) the claimant failed to timely report the injury to the employer pursuant to Section 409.001 and the respondent (carrier) is relieved of liability pursuant to Section 409.002; and (4) because the claimant did not sustain a compensable injury, the claimant did not have disability. The claimant appealed the hearing officer's determinations asserting that the medical evidence supports her contention that she sustained a compensable injury with a date of injury of February 18, 2003, and that she timely notified her employer of her claimed injury. The carrier responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden of proof on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence, and determines what facts have been established. The hearing officer may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the appealed issues 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 hearing officer's decision and order.

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

**MR. RUSSELL OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge