

APPEAL NO. 041073  
FILED JUNE 28, 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 held on April 12, 2004. The hearing officer determined that the respondent (claimant) sustained compensable cervical, thoracic, and lumbar sacral strains, and a L4-5 disc herniation injury on \_\_\_\_\_; that the claimant gave timely notice of his work-related injury pursuant to Section 409.001; and that the claimant had disability from June 12, 2003, through the date of the CCH.

The appellant (carrier) appeals the adverse determinations on a sufficiency of the evidence basis, citing inconsistencies and contradictions in the evidence. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, a long haul truck driver, testified that he injured his neck and back on \_\_\_\_\_, helping use a pallet jack to redistribute the load on his truck. Much of the key evidence is in dispute. The claimant testified that he initially trivialized his injury taking over-the-counter medication. The claimant went to his family doctor on June 12, 2003, and was diagnosed with a neck and back strain and was taken off work. According to the claimant he reported his injury to his supervisor, JM, the next day June 13, 2003 (a fact which is denied in two statements from JM). In dispute is whether the claimant reported a work-related injury to his doctor on the first visit, and whether he reported an injury to JM on June 13, 2003. An MRI eventually indicated a herniated lumbar disc.

The questions of whether the claimant sustained a compensable injury, whether he timely reported his injury, and whether he had disability, as defined in Section 401.011(16), presented questions of fact for the hearing officer to resolve. There was simply diametrically conflicting evidence. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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 had established. The hearing officer could believe all, part or none of the witness' testimony (Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ)). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **STAR INSURANCE 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.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge