

APPEAL NO. 041094  
FILED JUNE 30, 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 April 16, 2004. The hearing officer determined that: (1) the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; (2) the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant had good cause to delay reporting the injury until June 24, 2003, the day he reported the injury to the carrier; and (3) the claimant had disability beginning December 11, 2003, and continuing through the date of the hearing. The carrier appeals the determinations on evidentiary sufficiency grounds. The claimant responded, urging affirmance.

DECISION

Affirmed, as reformed.

The hearing officer erroneously duplicated some of the numbering of his findings of fact and conclusions of law. To correct this, we reform the second Finding of Fact No. 7 by changing it to Finding of Fact No. 8. In addition, we reform the second Conclusion of Law No. 3 by changing it to Conclusion of Law No. 5. We note also that in the style and throughout the carrier's appeal, the carrier's attorney erroneously refers to the carrier as "Continental Casualty Company" while the Decision and Order and Hearing Officer's Exhibit No. 2 indicate that the carrier in this case is "American Casualty Company of Reading, Pennsylvania" as noted above.

The issues of whether the claimant sustained a compensable injury, whether he timely reported the injury or had good cause for failing to timely report the injury, and whether he had disability presented factual questions for the hearing officer to resolve. The claimant had the burden of proof on all of the issues. The evidence was complicated and confusing because the claimant had a prior low back injury; the hearing officer found that the claimant was credible in his assertion that he did not know that he had a new injury until his last visit with Dr. K, his then-treating doctor. Conflicting evidence was presented on the disputed issues of whether the claimant sustained a compensable injury, timely reported that injury, and had disability as a result of the injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Although there is conflicting evidence in this case, we conclude that the hearing

officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Although another fact finder may have drawn different inferences from the evidence, which would have supported a different result, that fact does not provide a basis for us to reverse the hearing officer's decision on appeal. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer, as reformed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** 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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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Chris Cowan  
Appeals Judge