

APPEAL NO. 041558
FILED AUGUST 19, 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 May 27, 2004. The hearing officer resolved the disputed issues by deciding: (1) that the respondent (claimant herein) sustained a compensable injury on _____; (2) that the claimant had disability beginning on October 17, 2003, continuing through the date of the CCH; (3) that the appellant self-insured (carrier herein) is not relieved from liability under Section 409.002 because the claimant timely notified his employer pursuant to Section 409.001; and (4) that "even though Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.3 (Rule 124.3), which required Carrier to dispute compensability or initiate benefits within seven days of receiving written notice of an injury, had been overruled by statute that became effective September [1], 2003, Carrier is still liable for payment of accrued benefits pursuant to the statute, which required Carrier to dispute or initiate payment of benefits within fifteen days of receiving written notice of the injury." The carrier appealed, disputing the injury, disability, and timely notice determinations. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Under Section 409.002, failure to notify an employer of an injury as required by Section 409.001(a) relieves the employer and the employer's insurance carrier of liability for the injury, unless the employer, a person eligible to receive notice under Section 409.001(b), or the employer's insurance carrier has actual knowledge of the employee's injury. In DeAnda v. Home Insurance Company, 618 S.W.2d 529 (Tex. 1980), the Texas Supreme Court stated that the rule of liberal construction should be applied and that "the term 'employer' in the statute should be accorded a broad interpretation." The Court went on to recognize that notice of an injury is sufficient if it is given to an agent designated by the employer to receive such information. The court emphasized that the actual knowledge need not apprise the employer of the exact time, place, and extent of the injury; rather, the employer need only know the general nature of the injury and the fact that it is job related. Id. at 533. Under the facts of this case we cannot say that the hearing officer's determination that the carrier is not relieved from liability under Section 409.002 because the claimant timely notified his employer pursuant to Section 409.001 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 questions of whether the claimant sustained a compensable injury and whether he had disability presented questions of fact for the hearing officer to resolve. 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 has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the carrier. 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, *supra*. Accordingly, no sound basis exists for us to disturb those determinations on appeal.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**JONATHAN BOW, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge