

APPEAL NO. 041717
FILED AUGUST 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 June 8, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury; that the respondent (carrier) is relieved of liability under Section 409.002 because of the claimant's failure to timely notify his employer of his claimed injury pursuant to Section 409.001; and that the claimant has not had disability. The claimant appealed, contending that the hearing officer erred in excluding certain medical records from evidence. The carrier asserts that the evidence supports the hearing officer's decision and that the hearing officer did not abuse his discretion in excluding certain medical records offered by the claimant.

DECISION

Affirmed.

To obtain reversal of a decision based upon error in the admission or exclusion of evidence, it must be shown that the evidentiary ruling was in fact error, and that the error was reasonably calculated to cause and probably did cause the rendition of an improper decision. Texas Workers' Compensation Commission Appeal No. 91003, decided August 14, 1991. The claimant contends that he had good cause for failing to timely exchange the medical records that were excluded from evidence. The medical records are from 2001 and 2002. After considering the respective positions of the parties, the hearing officer determined that the claimant had not established good cause and sustained the carrier's objection. We conclude that the claimant has not shown that the hearing officer abused his discretion in determining that the claimant failed to show good cause for not timely exchanging the records nor has the claimant shown that error, if any amounted to reversible error. See Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)).

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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. 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 PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Underwriters Insurance Company** an impaired carrier and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge