

APPEAL NO. 041872
FILED SEPTEMBER 7, 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 July 9, 2004. The hearing officer determined that: (1) the correct date of injury is _____; (2) the respondent (carrier) is relieved from liability pursuant to Section 409.002, because the appellant (claimant) failed to timely notify his employer of an injury, without good cause, in accordance with Section 409.001; (3) because the carrier is relieved from liability, the claimant did not sustain a compensable injury; and (4) the claimant did not have disability. The claimant appeals these determinations on sufficiency of the evidence grounds. The carrier urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved 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)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are 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). Nor can we conclude that the hearing officer abused his discretion in reaching his decision. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986).

The claimant complains of ineffective assistance from the Texas Workers' Compensation Commission's ombudsman in the presentation of his case. The claimant did not raise this matter at the hearing below, nor does the record reflect that the claimant desired to provide any additional evidence in support of his claim, which was not provided by the ombudsman. Accordingly, we decline to reverse the hearing officer's decision on this basis.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **FIDELITY AND GUARANTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge