

APPEAL NO. 042353  
FILED NOVEMBER 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on August 9, 2004. With regard to (Docket No. 1), the hearing officer determined that the appellant (claimant) sustained an injury while in the course and scope of her employment on "(incorrect date of injury)," but that the injury is not compensable because the claimant did not timely notify her employer of the injury and no good cause exists for said failure to timely notify the employer. The hearing officer additionally determined that because there is no compensable injury, there can be no disability. With regard to (Docket No. 2), the hearing officer determined that the compensable injury of (date of injury for Docket No. 2), did not extend to a low back injury after (date of injury for Docket No. 1), and that the claimant did not have disability as a result of the (date of injury for Docket No. 2), compensable injury. The claimant appealed the determinations with regard to timely notice and disability in Docket No. 1 on sufficiency of the evidence grounds. Respondent 1 (carrier 1) responded, urging affirmance. The appeal file does not contain a response from respondent 2 (carrier 2). The hearing officer's determinations with regard to Docket No. 2 were not appealed and have become final. Section 410.169.

DECISION

Affirmed as reformed.

Both the claimant in her appeal, and carrier 1 in its response, correctly point out that the hearing officer repeatedly, and erroneously, references a (incorrect date of injury), date of injury in her decision and order. It is clear from the record, and the parties agree, that the actual date of the claimed injury is (date of injury for Docket No. 1). Therefore, all references to a (incorrect date of injury), date of injury in the decision and order are hereby reformed to reflect that the actual date of the claimed injury is (date of injury for Docket No. 1).

The hearing officer did not err in making the complained-of determinations. The timely notice, compensability, and disability 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. (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 regarding the disputed issues 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).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier 1 is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO  
ZURICH NORTH AMERICA  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

The true corporate name of the insurance carrier 2 is **AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY C. LEADERER  
1999 BRYAN STREET  
DALLAS, TEXAS 75201.**

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Daniel R. Barry  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge