

APPEAL NO. 950260

This appeal is brought pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held in (city), Texas, on January 26, 1995, with (hearing officer) presiding as hearing officer. With respect to the only issue before her, the hearing officer determined that the respondent (claimant) timely reported his compensable injury of (date of injury), to his employer. The appellant (carrier) requested review urging that the determination of the hearing officer is against the great weight and preponderance of the evidence. A response from the claimant has not been received.

DECISION

We affirm.

While working for the employer on (date of injury), the claimant injured his back moving a 55-gallon drum of oil. The claimant told (Mr. B), the A-operator, about his injury. Mr. B supervised the work of the claimant and was the person that the claimant was to go to if he had problems on the job. (Mr. P) testified that he was the shift foreman on the night of the injury; that Mr. B supervised the claimant on the shift on which the claimant was injured; that Mr. B was not the claimant's supervisor; and that he, Mr. P, was the claimant's supervisor. Mr. P said that the claimant and Mr. B worked in one location, that he worked in another location, and that Mr. B did not tell him about the claimant's injury, and that he first learned of the claimant's injury in a meeting in January 1992. He said that Mr. B was the claimant's crew leader, but that under the policy of the employer it was the claimant's responsibility to report the injury directly to him because he was the claimant's supervisor.

Section 409.001 provides that the employee shall notify the employer or an employee of the employer who holds a supervisory or management position of an injury not later than the 30th day after the date of the injury. In Texas Workers' Compensation Commission Appeal No. 92694, decided February 8, 1993, a case with similar facts concerning persons who held "supervisory" positions, the Appeals Panel wrote "the 1989 Act does not require that there be a direct supervisory chain, only that the person to whom a report is made holds a supervisory or management position." In Appeal No. 92694, *supra*, the Appeals Panel also noted that the failure of the person in a supervisory position to notify appropriate persons in management did not invalidate the notice given by the injured worker. In Texas Workers' Compensation Commission Appeal No. 93761, decided October 4, 1993, the Appeals Panel held that an employer cannot bind a claimant to stricter requirements than those contained in the 1989 Act.

Finding sufficient evidence to support the determination of the hearing officer and concluding that the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or unjust, we affirm the decision and order of the hearing officer.

Tommy W. Lueders
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Alan C. Ernst
Appeals Judge