APPEAL NO. 022145
FILED OCTOBER 15, 2002

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 15, 2002. The record closed on July 26, 2002. With respect to the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that she had disability, as a result of her compensable injury, from March 27 to April 8, 2002; and that the appellant (self-insured) did not specifically contest compensability pursuant to Section 409.021 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.2(f) (Rule 124.2(f)). In its appeal, the self-insured argues that the hearing officer erred in determining that it did not specifically contest compensability in its Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21). In addition, the self-insured challenges the hearing officer's injury and disability determinations as being against the great weight of the evidence. The appeal file does not contain a response to the self-insured's appeal from the claimant. In addition, the claimant did not appeal the determination ending her disability on April 8, 2002.

DECISION

Affirmed in part and reversed and rendered in part.

Initially, we address the self-insured's contention that the hearing officer incorrectly identified the self-insured in both the caption and Finding of Fact No. 1.B. The record was held open in this case so that the self-insured could submit the required information about its true corporate name and its registered agent for service of process in Texas. The self-insured submitted that evidence, but the hearing officer did not reflect that information in the caption and in Finding of Fact No. 1.B.; thus, we modify the caption and Finding of Fact 1.B., which identified the self-insured as Texas Education Entity Company, to properly state that the self-insured is Region XIX, Political Subdivision, a Self-Insured through West Texas Educational Association.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. That issue presented a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The hearing officer's determination that the claimant sustained a compensable injury is supported by the claimant's testimony and the records from the claimant's treating doctor. Nothing in our review of the record demonstrates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis

exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The self-insured's challenge to the hearing officer's disability determination is premised upon the success of its argument that the claimant did not sustain a compensable injury on _____. Given our affirmance of the injury determination, we likewise affirm the determination that the claimant had disability from March 27 to April 8, 2002.

Finally, we consider the hearing officer's determination that the self-insured's TWCC-21 was insufficient to serve as a contest of compensability. The hearing officer determined that the self-insured's TWCC-21 was only sufficient to challenge disability. In its TWCC-21, the self-insured stated:

> A pre-existing injury is the sole cause of the claimant's disability. Further, the claimant's disability is not related to a new injury, but rather is a result of a prior workers' compensation injury of (previous injury). The claimant's alleged disability for an injury of _____ is a continuation of the prior injury of (previous injury). The alleged injury of _____ did not aggravate the prior injury. Further, the alleged injury of _____ is not a producing cause of any incapacity, but the claimant's incapacity, if any, solely results from the prior injury of (previous injury).

It is well settled that "magic words are not necessary to contest the compensability" under Section 409.022. Texas Workers' Compensation Commission Appeal No. 941755, decided February 13, 1995 (quoting Texas Workers' Compensation Commission Appeal No. 93326, decided June 10, 1993). Rather we "look to a fair reading of the reasoning listed to determine if the [contest] is sufficient." Id. "The key point to be determined is whether, read as a whole, any of the reasons listed by a carrier would be a defense to compensability that could prevail in a subsequent proceeding and whether the grounds listed, when considered together, encompass a controversion or dispute on the basic issue that an injury was not suffered within the course and scope of employment." Texas Workers' Compensation Commission Appeal No. 94977, decided September 6, 1994 and cases cited therein. We have previously determined that the statement that an injury "is not work related" (Texas Workers' Compensation Commission Appeal No. 93302, decided June 2, 1993) and that there is "no evidence of an injury in the course and scope" (Texas Workers' Compensation Commission Appeal No. 931148, decided February 1, 1994) were sufficiently specific statements to contest compensability. Likewise, we have determined that language questioning whether an injury had occurred was sufficient to demonstrate a dispute of compensability. Texas Workers' Compensation Commission Appeal No. 93658, decided September 14, 1993. In this instance, although we would agree that the

primary focus of the TWCC-21 is disability, we cannot agree with the hearing officer's determination that there is insufficient specificity in the TWCC-21 to convey a dispute of compensability. Rather, we believe that the language stating that the claimant did not sustain a "new injury" together with the language that the "alleged injury of _____ did not aggravate the prior injury" demonstrates that the self-insured was contesting whether the claimant sustained an injury in the course and scope of her employment on _____. Accordingly, we reverse the determination that the self-insured did not specifically contest and render a new determination that the TWCC-21 filed by the self-insured was sufficient to raise a contest of compensability.

The hearing officer's injury and disability determinations are affirmed. The determination that the self-insured did not specifically contest compensability is reversed and a new decision rendered that the TWCC-21 filed by the self-insured was sufficient to raise a contest of compensability.

The true corporate name of the self-insured is **a (SELF-INSURED)** and the name and address of its registered agent for service of process is

EXECUTIVE DIRECTOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Philip F. O'Neill
Appeals Judge

_____
Margaret L. Turner
Appeals Judge