APPEAL NO. 023210
FILED FEBRUARY 5, 2003

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 December 4, 2002. In (Docket No. 1), the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant therefore did not have disability resulting from an injury sustained on _____; and that respondent 1 (carrier 1) is relieved from liability under Section 409.002, because of the claimant's failure, without good cause, to timely notify his employer pursuant to Section 409.001. The claimant appealed, asserting procedural error by the hearing officer and on sufficiency of the evidence grounds. Carrier 1 responded, urging affirmance. In (Docket No. 2), the hearing officer determined that the claimant did not sustain a compensable injury on (date of injury for Docket No. 2), and that he therefore did not have disability. The claimant appealed, asserting procedural error by the hearing officer and on sufficiency of the evidence grounds. Respondent 2 (carrier 2) responded, urging affirmance.

DECISION

Affirmed.

The claimant filed a separate appeal for each claim. In both appeals the claimant asserts that the hearing officer erred in not severing the claims and failing to hold separate hearings. The benefit review conference (BRC) for both claims was held on October 7, 2002, and all parties were notified that the hearings on the two claims were scheduled for the same time, date, and place. The claimant did not file a response to the BRC report, nor did he file any request to have the claims severed. At the commencement of the consolidated hearing on the two claims, the claimant's attorney made a motion to sever the claims. The attorney asserted that the claims should be severed due to "confidentiality" and because the evidence in one claim may be prejudicial to the other. The claimant's attorney did not believe that the claims needed to be heard by different hearing officers. Both carrier 1 and carrier 2 objected to the severance. The hearing officer determined that no good cause was shown to sever the claims and held the consolidated hearing.

We have reviewed the record in this matter and find no evidence that the hearing officer was in anyway biased or committed any error in refusing to sever the claims. The claimant has failed to specifically show what evidence violated the claimant's "confidentiality" or was prejudicial to either claim. Additionally, we note that the claimant did not file a request to sever the claims after the BRC, and did not object to the same hearing officer hearing both claims. We find no error in the way the hearing on the two claims was conducted.

We next address the claimant's assertion that the hearing officer's decision should be reversed because she failed to make findings of fact regarding the period of disability attributable to Docket No. 1. We do not agree. The hearing officer made a conclusion of law that the claimant sustained no disability as a result of the claimed injury because it was not found to be compensable. Without a compensable injury, there can be no disability within the meaning of the 1989 Act. Section 401.011(16).

What remains in both appeals is essentially a challenge to the way the hearing officer assessed credibility and gave weight to the evidence. We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. The disputed issues in both claims presented questions of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issues. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.

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

GAIL L. ESTES
1525 NORTH INTERSTATE 35 E, SUITE 220
CARROLLTON, TEXAS 75006.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Michael B. McShane
Appeals Panel
Manager/Judge