

APPEAL NO. 031152  
FILED JUNE 25, 2003

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 April 11, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that the claimant had disability on February 7 and 8, 2002, and from March 8 through March 25, 2002; and that the appellant (carrier) has waived the right to contest compensability of the claimed injury by not timely contesting the injury in accordance with Section 409.021. The carrier appealed, pointing out inconsistencies and contending that all the facts were not fully considered by the hearing officer. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he sustained an injury to his hip/groin area on \_\_\_\_\_, while lifting a box containing a pickup truck hood. He further testified that as a result of that injury, he was unable to work on February 7 and 8, 2002, and again from March 8 through March 25, 2002. The employer testified that the claimant told him he didn't know how he was injured, so no paperwork was filled out and filed with the carrier on the claim.

The carrier's appeal, for the most part, takes issue with the way the hearing officer weighed the evidence presented. The carrier alleges that the hearing officer did not consider all of the "crucial" facts in this case. Upon review of the record, we find no indication that the hearing officer did not consider all of the evidence presented. The claimant had the burden to prove that he sustained a compensable injury as defined by Section 401.011(10) and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues of whether the claimant sustained a compensable injury and had disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determinations that the claimant did sustain a compensable injury and did have disability are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Conflicting evidence was also presented on the waiver issue. On its face, the Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) indicates that the carrier received first written notice of the injury on February 6, 2002, and the form was dated April 11, 2002. The carrier presented evidence from the employer that the carrier could not have received notice of the injury on February 6, 2002, because

nobody from the employer contacted the carrier. However, the carrier does not offer any explanation why it's TWCC-21 had the date it received the first written notice as being February 6, 2002. The hearing officer found that the carrier first received written notice of the claimed injury on February 6, 2002, and that the carrier contested compensability of the claimed injury no earlier than April 11, 2002, which was more than seven days after the date it received the written notice. The hearing officer concluded that the carrier did waive its right to contest compensability because it did not timely contest the claimed injury in accordance with Sections 409.021 and 409.022. See Continental Casualty Company v. Downs, 81 S.W.2d 803 (Tex. 2002). We conclude that the hearing officer's findings and conclusion on the waiver issue are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, supra.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **UNIVERSAL UNDERWRITERS GROUP** and the name and address of its registered agent for service of process is

**RON JOHNSON**  
**101 EAST PARK BOULEVARD, SUITE 200**  
**PLANO, TEXAS 75074.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Veronica Lopez-Ruberto  
Appeals Judge