

APPEAL NO. 032417
FILED NOVEMBER 4, 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 (CCH) was held on August 15, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____; that the claimant had disability beginning on October 9, 2002, and continuing through the date of the CCH; and that the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified the employer pursuant to Section 409.001. The carrier appealed, arguing that the hearing officer's determinations are not supported by sufficient evidence and are so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury, that he had disability as defined by Section 401.011(16), and that he gave timely notice of injury to his employer pursuant to Section 409.001. Conflicting evidence was presented on the disputed issues at the CCH. 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. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations that the claimant did sustain a compensable injury on _____; that he timely notified his employer pursuant to Section 409.001; and that he had disability beginning October 9, 2002, and continuing through the date of the CCH 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 v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge