

APPEAL NO. 010498

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 February 7, 2001. The hearing officer determined that: (1) respondent (claimant) sustained a new right shoulder injury, but not a cervical injury, on _____; (2) claimant timely reported her injury to her employer; (3) claimant's claim filing time was extended because of the delay in the filing of the Employer's First Report of Injury or Illness (TWCC-1); and (4) claimant had disability from January 10, 1997, through the date of the hearing. Appellant (carrier) appealed these determinations on sufficiency grounds, except for the determination regarding a cervical injury, which was not appealed by either party. Claimant responded that the Appeals Panel should affirm the hearing officer's decision.

DECISION

We affirm.

We have reviewed the complained-of determinations regarding injury, timely notice, and disability, and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Regarding the issue of timely filing of a claim, carrier asserts that it did file a TWCC-1 and that it is relieved of liability because claimant did not file a claim for her _____, injury, until June 10, 1999. However, the hearing officer found that by June 10, 1999, neither carrier nor employer had filed a report of injury pursuant to Section 409.005. We conclude that this determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge