

APPEAL NO. 010821
FILED JUNE 6, 2001

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 March 29, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury in the form of an occupational disease on _____, and first reported her injury to her employer on October 31, 2000. However, the hearing officer determined that the claimant had good cause for her failure to timely report her injury. The appellant (carrier) appeals and seeks reversal on sufficiency grounds. The claimant responds and urges affirmance of the hearing officer's decision and order in all respects.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury in the form of an occupational disease on _____. The evidence adduced at the hearing confirms that the claimant has been diagnosed with bilateral carpal tunnel syndrome. The claimant testified that she first began having pain in her hands in _____, and that, while she believed it was exacerbated by hereditary arthritis, it only occurred while at work and she connected the pain to her work making orthodontic appliances. The carrier introduced evidence that the claimant believed her pain to have begun in _____, but disavowed the evidence in its closing and argued under the assumption that the claimant's injury had been in _____.

The hearing officer did not err in determining that the claimant had good cause for not timely reporting her injury to her employer. The claimant testified that while she knew her injury was either caused by, or connected with, her work, she did not think it serious enough to notify her employer since she was able to relieve her pain with massage and ointment until October of 2000, when it became unbearable. The claimant further testified that after two weeks of nonstop symptoms in her hands, she notified her employer of her injury on October 31, 2000. The carrier argues that because the claimant associated her pain with her work, she should have notified her employer within 30 days of _____.

The parties presented evidence which legitimately conflicts on the disputed issues. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will

not disturb the challenged findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

For these reasons, we affirm the decision and order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge