

APPEAL NO. 011127
FILED JULY 05, 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 (CCH) was held on May 9, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease on _____; that the claimant timely notified her employer of the injury pursuant to Section 409.001 and therefore the appellant (carrier) is not relieved of liability under Section 409.002; and that the claimant had disability beginning on January 16, 2001, and continuing through the date of the CCH. All of these rulings the carrier appealed on the basis that the evidence was insufficient and the decision was against the great weight and preponderance of the evidence. There is no response from the claimant to the carrier's request for review in the appeal file.

DECISION

Affirmed.

The hearing officer is the sole judge of the weight and credibility to be given to the evidence and the relevance and materiality to assign to the evidence. Section 410.165(a). As the fact finder, the hearing officer is charged with the responsibility to resolve the conflicts in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer could believe all, none, or any part of any witness's testimony and could properly decide what weight he should assign to the other evidence before him. Campos. We will not substitute our judgment for the hearing officer's where his determinations are supported by sufficient evidence. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

In this case, the hearing officer determined that the claimant did sustain a compensable occupational disease and that she timely reported it to the employer, although there was evidence that her report bore a different date of injury. In weighing the evidence, the hearing officer considered the medical evidence, exhibits, and testimony, in deciding as he did. After considering the evidence in the record, we cannot agree that the hearing officer's determinations are against the great weight and preponderance of the evidence. The hearing officer's findings of fact are supported by sufficient evidence. Nothing in our review of the record indicates that the hearing officer's determinations are clearly wrong or manifestly unjust. Therefore, we will not disturb these findings on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Gary Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge