

APPEAL NO. 011143
FILED JULY 03, 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 7, 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; that the date of injury is _____; that the claimant had disability beginning on October 30, 2000, and continuing through the date of the CCH; and that because the claimant gave timely notice to her employer of the injury, the appellant (carrier) is not relieved of liability. On appeal, the carrier urges that the hearing officer's determinations that the date of injury is _____, and that the claimant gave timely notice to her employer are against the great weight of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, when the claimant knew or should have known that the bilateral carpal tunnel syndrome may be related to her employment, is generally a question of fact for the hearing officer to resolve. Similarly, whether, and, if so, when, the employee gave timely notice of an injury is generally a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93761, decided October 4, 1993. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. 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.). As an appellate-reviewing tribunal, the Appeals Panel will not disturb the challenged factual 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). The hearing officer's determinations that the date of injury is _____, and that the claimant reported the injury to her employer timely are supported by the evidence.

Accordingly, the hearing officer's decision and order are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge