

APPEAL NO. 011289  
FILED JULY 23, 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 May 16, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable occupational disease; that the date of injury of the claimed occupational disease was \_\_\_\_\_; that the claimed occupational disease included bilateral shoulder tendinitis, bilateral carpal tunnel syndrome, and bilateral cubital tunnel syndrome; that the claimant did not timely report her occupational disease to her employer; that continuing good cause did not exist up to the time the claimant reported her occupational disease to her employer; and that the claimant has not had disability. The claimant appealed and the respondent (self-insured) responded.

DECISION

The hearing officer's decision is affirmed.

The hearing officer found that the claimant sustained a repetitive trauma injury and that the claimant was unable to work because of that injury; however, the hearing officer determined that the claimant's injury was not compensable because he found against the claimant on the issue of notice of injury to the employer. Section 409.001 states the 30-day time period for providing notice of injury to the employer; Section 409.002 contains a good cause exception for failing to provide timely notice of injury to the employer; and Section 408.007 pertains to the date of injury for an occupational disease, which, under Section 401.011(34), includes a repetitive trauma injury. While the date that the injury was reported to the employer was not disputed, there is conflicting evidence with regard to the date of injury and when good cause for failing to timely report the injury ended. The hearing officer resolved the conflicts in the evidence and found adversely to the claimant on those issues. 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 from the evidence presented. The appealed determinations 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.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge