

APPEAL NO. 011332
FILED JULY 26, 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 25, 2001. 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 carrier is not relieved from liability because the claimant timely notified her employer of the injury in accordance with Section 409.001; and that the claimant had disability from November 17, 2000, through the date of the CCH. The appellant (carrier) contends on appeal that the determination that the claimant sustained a compensable injury in the form of an occupational disease is against the great weight of the evidence. Alternatively, the carrier argues that the claimant knew or should have known that her injury was work related on _____, and, therefore did not timely notify her employer of the injury. The appeals file contains no response from the claimant.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. 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 condition involving her hand may be related to the employment, is generally a question of fact for the hearing officer to resolve. 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's determination that the date of injury was _____, and that the claimant reported the injury to her employer timely is sufficiently supported by the evidence. Similarly, whether the claimant's work activities were sufficiently repetitive to cause right De Quervain's and right trigger thumb, and whether the injury rendered the claimant unable to obtain or retain employment at her preinjury wage, were also factual determinations for the hearing officer to resolve. The hearing officer found for the claimant on these disputed issues and such findings 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).

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

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge