

APPEAL NO. 011377
FILED AUGUST 2, 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 22, 2001. The hearing officer determined that: (1) appellant (claimant) did not sustain a compensable repetitive trauma injury; (2) claimant did not have disability; and (3) claimant did not timely report the claimed injury. Claimant appealed these determinations on sufficiency grounds. Claimant also contends the hearing officer abused his discretion in excluding a statement from Ms. T, claimant's supervisor. The hearing officer also made a determination regarding the sufficiency of the Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) filed by respondent (carrier), but this was not appealed. Carrier responded to claimant's appeal and asserted that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations 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). Regarding the exclusion of the statement from Ms. T, we note that Ms. T did not state that claimant reported a work related injury. The fact that an injured worker reports having pain while working does not equate to the reported pain being caused by work. This evidence, even if admitted, would not be likely to change the outcome of the case. We conclude that there was no reversible error in the exclusion of the statement. See Texas Workers' Compensation Commission Appeal No. 010015, decided February 2, 2001.

We affirm the hearing officer's decision and order.

Judy L. S. Barnes
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge