

APPEAL NO. 011485
FILED AUGUST 16, 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 25, 2001. The hearing officer determined that (1) the respondent (claimant) sustained a compensable injury on _____; and (2) the appellant's (carrier) contest of compensability was based on newly discovered evidence that could not have reasonably been discovered prior to the 60th day after the carrier received written notice of the claimant's injury. The carrier appeals the hearing officer's injury determination on sufficiency grounds. No response was filed. The hearing officer's decision with regard to the timely contest of compensability was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that he sustained damage or harm to his right wrist and hand arising out of and in the course and scope of his employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies 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's determination is 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 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge