

APPEAL NO. 012130
FILED OCTOBER 22, 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 August 14, 2001. With regard to the four issues before him, the hearing officer determined that the respondent's (claimant) date of injury was _____ (all dates are 2001 unless otherwise noted); that the claimant sustained a compensable repetitive trauma injury on that date; that the claimant timely reported her injury to the employer pursuant to Section 409.001; and that the claimant had disability beginning on March 28 and continuing through the date of the CCH.

The appellant (carrier) appeals, asserting that there is an insufficient causal connection between the claimant's injury and her employment; that the claimant's testimony is inconsistent; that the claimant has had symptoms for six months; and that the claimant did not timely report her alleged injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as an "order filler" in the employer's warehouse. The claimant testified that she began to have numbness, pain, and tingling in her hands and fingers, which she associated with her work, about two weeks prior to _____; that she had increased pain and complained about a work-related injury to her supervisor on March 13 (the supervisor, in a statement, said that "one day in March" the claimant said "she was sore" but did not attribute it to work); that she sought medical care on March 16; and that she also informed the employer's human resources manager of the work-related injury. The carrier's position is that the claimant's duties were not sufficiently repetitive to cause an injury, that the claimant had been given several warnings about not meeting her quota, had been given "a final warning" on March 23, and that the claimant filed her claim in retaliation.

The claimant saw Dr. S on March 16 and in an office note Dr. S noted numbness in fingers "X 6 mos." The claimant subsequently began seeing Dr. O, a chiropractor, who diagnosed bilateral carpal tunnel syndrome and released the claimant to light duty. The employer did not have light duty and sent the claimant home on March 27. Electrodiagnostic testing showed some abnormalities.

There was conflicting evidence and inconsistencies in the claimant's testimony. The hearing officer determined the date of injury from the claimant's testimony that she was aware that the pain and numbness in her hands was work related two weeks prior to _____, *i.e.* _____ and that she timely reported her injury on _____. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to

be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge