APPEAL NO. 012300
FILED OCTOBER 30, 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 September 4, 2001. With regard to the issues before him, the hearing officer determined that the appellant (claimant) had not sustained a new compensable injury in the form of an occupational disease (repetitive bilateral carpal tunnel syndrome (CTS)) on _____ (all dates are 2001 unless otherwise noted); that the claimant did not have disability; and that the claimant did not timely notify her employer of her injury pursuant to Sections 409.001 and 409.002.

The claimant appeals principally on the issue of timely notice to the employer; however, we will also consider the other issues. The respondent (carrier) responds to the claimant's appeal, noting that the claimant had only appealed the notice issue, and otherwise urges affirmance.

DECISION

Affirmed.

The claimant was employed on the housekeeping staff of the employer country club. The claimant had had a prior workers' compensation CTS injury in 1991, with surgery performed in 1991 and 1996. The claimant testified that she began having nagging pain in her wrists in _____ (or earlier). The claimant testified that by the end of February the pain had gotten worse, that she knew it was work related, and that she began making efforts to see Dr. D.[1]

The claimant saw Dr. D on March 13 and, in a report of that date, Dr. D notes that the claimant has been receiving chiropractic care "without much improvement" (the claimant said this was for an unrelated back injury) and diagnoses "[p]ossible recurrent [CTS]." A report dated April 5 from Dr. D states that he does not know "within reasonable medical probability whether [claimant's claimed injury] is mostly due to the old injury or mostly due to work since the injury–it is really a combination of both factors." Although the evidence is unclear, the claimant apparently initially submitted her claim to her group health carrier, and someone in Dr. D's office called the group health carrier for verification of coverage. The group health carrier indicated that they had received the claimant's claim on March 30, and it is undisputed that the group health carrier subsequently denied coverage.

The claimant testified that on _____ she reported her injuries to two coworkers, and to Ms. NG, a person in the employer's personnel office (denied by Ms. NG); Ms. LB,

[1]Although the claimant's testimony and some medical records would support an earlier date of injury, the parties, and the framed issue, appear to accept _____ as the date of injury.

another person in the personnel office (also denied by Ms. LB); and Mr. BM, the club manager, who is no longer employed by the employer. The testimony supports the claimant's contention that she was concerned that the group health carrier was not paying medical benefits in April. The claimant again expressed this concern in May and, on May 18, submitted a resignation giving two weeks notice to collect accrued vacation time. The claimant was apparently informed that the group health carrier had denied benefits on May 21, and on that day she made a claim for workers' compensation benefits with Ms. LB. The claimant subsequently applied for unemployment benefits.

The evidence regarding when and to whom the claimant reported a work injury was in conflict. The hearing officer found that the claimant did not give notice of an injury to a supervisor until May 21, which is more than 30 days after the accepted _____ date of injury. *See* Section 409.001. The hearing officer also found that the claimant's employment and work activities neither caused the development of the bilateral ganglion cysts nor caused the acceleration (aggravation) of the development of the ganglion cysts which resulted in the "increasingly severe symptoms from [CTS]." Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge 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. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986)

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 SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge