APPEAL NO. 012332
FILED NOVEMBER 13, 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 10, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury was _____; and that the claimant timely reported his injury to the employer on _____. In its appeal, the appellant (carrier) argues that the date of injury was sometime well prior to _____, and that the claimant the claimant had not timely reported the injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant testified that he had worked as an auto mechanic for twenty-four years, and for the employer for nine years. The claimant described in detail how his work, particularly with tools of his trade, involves various contortions and manipulations of the hands and arms on a daily basis. The claimant testified that while his wrists were "achy" off and on for a few years, he believed it very minor and that he had never experienced numbness and burning in his fingers and hands as he did on _____. Immediately thereafter, the claimant testified that he contacted his physician, Dr. B, but was unable to see him until _____, at which time Dr. B told the claimant he suspected that the claimant had carpal tunnel syndrome (CTS) or some other hand/wrist problem. Dr. B then referred the claimant to Dr. R, a neurologist, who definitively diagnosed the claimant with bilateral CTS on March 21, 2001. The medical records from both Dr. B and Dr. R support the testimony of the claimant and the determination of the hearing officer that the claimant sustained a compensable injury in the form of an occupational disease.

The hearing officer's determination that the claimant's date of injury is _____, is also well-supported by the record. _____, is the first date that the claimant received treatment for his symptoms and the first time a medical professional told him he may have an injury (CTS) caused by his employment activities. The record seems to indicate that, until _____, the claimant somewhat trivialized his wrist pain as being the normal aches and pains associated with working hard. "Achiness" does not necessarily equate with an injury as defined in Section 401.011(26).

The hearing officer appears to agree that the fact that the claimant had minor wrist "achiness" for a few years prior to this date was not material to his timely reporting of his injury. The carrier argued that the claimant should have informed them of his alleged work-related injury before he did, and the supervisors' statements indicate that they were unaware of the claimant's alleging a workers' compensation claim until _____ or _____. The claimant and his wife testified that he told his immediate supervisor

what his doctor had advised on the day of his first appointment, _____. There is sufficient evidence in the record to support the hearing officer's determination that the claimant timely reported his injury to his employer, pursuant to Sections 409.001 and 409.002 of the 1989 Act.

Whether the claimant sustained a compensable injury in the form of an occupational disease, what his date of injury was, if any, and whether the claimant timely reported his injury, if any, were questions of fact for the hearing officer to decide. There was conflicting evidence submitted on those disputed issues. 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 determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust.

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

The true corporate name of the self-insured is **TWIN CITY FIRE INSURANCE COMPANY** and the address of its registered agent for service of process is

JIM ADAMS, ATTORNEY
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge