

APPEAL NO. 012401  
FILED NOVEMBER 15, 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 September 19, 2001. She determined that the appellant's (claimant) date of injury was \_\_\_\_\_, and that the respondent (carrier) is relieved from liability because the claimant did not timely notify his employer of the injury. The claimant urges on appeal that these determinations are not supported by the evidence and that the hearing officer erred in not admitting one of his exhibits. The carrier urges affirmance.

DECISION

Affirmed.

The claimant attempted to introduce into evidence at the CCH a letter prepared by Dr. H. A party wishing to present evidence at the CCH, which was not exchanged per Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)) must show good cause for its failure to exchange per the rule. Our standard of review for determining the appropriateness of the hearing officer's good cause finding is one of abuse of discretion. Texas Workers' Compensation Commission Appeal No. 92165, decided June 5, 1992. In deciding to exclude the exhibit in question, the hearing officer explained that the letter had not been timely exchanged with the carrier and that no good cause existed for the failure to timely exchange. We find no abuse of discretion in the hearing officer's exclusion of the exhibit.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries, such as the claimant's diagnosed bilateral carpal tunnel syndrome (BCTS). The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, when the claimant knew or should have known that the BCTS may be related to the employment, is generally a question of fact for the hearing officer to resolve. Similarly, whether, and, if so, when, notice is given is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93761, decided September 2, 1993. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As an appellate-reviewing tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We are satisfied that the hearing officer's determinations that the date of injury was \_\_\_\_\_, and that the claimant did not report the injury to his employer timely are sufficiently supported by the evidence.

Accordingly, the decision and order of the hearing officer are affirmed.

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

**C. T. CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge