

APPEAL NO. 012443
FILED NOVEMBER 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 September 4, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____, and that the claimant has not had disability. The claimant appealed and the respondent (self-insured) responded.

DECISION

As reformed herein, the hearing officer's decision is affirmed.

REPETITIVE TRAUMA INJURY ISSUE

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury. The claimant had the burden to prove that she was injured in the course and scope of her employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Section 401.011(36) defines "repetitive trauma injury" as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." The hearing officer was not persuaded that the claimant's job as a dispatcher resulted in a repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

DISABILITY ISSUE

The hearing officer did not err in determining that the claimant has not had disability because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

REFORMATION OF STIPULATIONS

In order to conform the stipulations recited in the hearing officer's decision to the actual stipulations made by the parties, we reform stipulations 1A and 1B by substituting the date of _____, which is the actual stipulated date, for the date of _____, which incorrectly appears in the stipulations recited in the decision.

The hearing officer's decision and order, as reformed herein, are affirmed.

The true corporate name of the insurance carrier is (**SELF-INSURED**) and the name and address of its registered agent for service of process is

**SHIRLEY ACY
1500 MARILLA
5D SOUTH
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge