

APPEAL NO. 020368
FILED APRIL 9, 2002

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 January 23, 2002. With respect to the issues before her, the hearing officer determined that on _____, the respondent (claimant) sustained a compensable injury, in the form of an occupational disease; that the appellant (carrier) is not relieved of liability pursuant to Section 409.002 because the claimant timely notified her employer of her injury pursuant to Section 409.001; and that the claimant had disability from June 29, 2001, through the date of the hearing. The carrier appealed on sufficiency grounds. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that she suffered damage or harm to the physical structure of the body occurring as a result of repetitious, physically traumatic activities that occurred over time and arose out of and in the course and scope of her employment. See Texas Workers' Compensation Commission Appeal No. 992486, decided December 29, 1999; Sections 401.011(34) and (36). There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Our review of the record does not reveal that the injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

There is also sufficient evidence to support the hearing officer's determination that the claimant gave notice of the claimed injury to her employer within 30 days of the date she knew or should have known of her injury. There was no dispute that the date of injury was _____. The hearing officer was acting within her province as the fact finder in crediting the claimant's testimony that she reported her injury to her employer on that date. Additionally, there is evidence to show that the claimant's direct supervisor had knowledge of the work-related injury on _____. Nothing in our review of the record demonstrates that the hearing officer's notice determination is so against the great weight and preponderance of the evidence as to compel its reversal on appeal. Cain.

The hearing officer did not err in determining that the claimant had disability from June 29, 2001, through the date of the hearing. The claimant's testimony and the evidence from the claimant's treating doctors support the disability determination and that

determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain.

The hearing officer's decision and order are affirmed.

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

**ROBIN MOUNTAIN
ACE USA
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200
IRVING, TEXAS 75063.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Edward Vilano
Appeals Judge