

APPEAL NO. 020511
FILED APRIL 15, 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 29, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury on _____; did not give her employer timely notice of her claimed injury or have good cause or other legal excuse for her failure to do so; and did not have disability. The claimant appealed the hearing officer's determinations on sufficiency grounds. Further, the claimant argued that the hearing officer applied the incorrect legal standard for notice of injury. The respondent (carrier) responded, urging that the hearing officer's decision and order be affirmed in its entirety.

DECISION

Affirmed.

We first address the claimant's challenge of the hearing officer's application of the law regarding the claimant's timely notice to her employer. The hearing officer determined that the claimant did not give adequate notice of her claimed injury to her employer until July 5, 2001, when the claimant dated her incident report and alleged that her bilateral carpal tunnel syndrome (BCTS) was a result of her work activities.¹ July 5, 2001, is well outside of the 30-day notice period from the apparently unchallenged date of injury, _____, the date the claimant was definitively diagnosed with BCTS. See, Section 409.001(a). The claimant argues that her e-mails to her supervisor and to the human resources department of her employer beginning May 1, 2001, constituted adequate notice to her employer, as they informed her employer of her BCTS and of her need for time off to have surgery to correct her BCTS. The hearing officer correctly determined that because those e-mails did not at all relate the claimant's BCTS to her work, a detail admitted by the claimant, they did not constitute adequate notice under the applicable law. See, DeAnda v. Home Insurance Company, 618 S.W.2d 529 (Tex. 1980). We agree, and the hearing officer did not err in finding that the claimant's notice was not timely and that she had no good cause or other legal excuse for her untimely notice.

Further, the hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury on _____. The hearing officer decided that because the claimant failed in her burden to establish causation between her work duties and her BCTS, her injury was not compensable. See Section 401.011(36). The parties presented conflicting evidence regarding this issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so

¹The parties agree, and the hearing officer found, that the claimant does have BCTS.

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).

Because we affirm the hearing officer's determination on compensability, we likewise affirm the determination that the claimant did not have disability. As a matter of law, a claimant may not have disability without first sustaining a compensable injury. See Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the 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.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge