

APPEAL NO. 021121
FILED JUNE 27, 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 March 20, 2002. In the "Decision" portion of the decision and order, the hearing officer wrote that on _____, the respondent/cross-appellant (claimant) sustained a compensable repetitive trauma injury to her right wrist, right forearm, and right shoulder in the form of tendonitis and did not sustain an injury to her neck, and that the claimant had disability from _____, through July 9, 2001, but did not have disability from July 10, 2001, through February 1, 2002. Both the claimant and the appellant/cross-respondent (carrier) appealed the hearing officer's decision.

DECISION

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

The claimant claimed that she sustained a repetitive trauma injury to her right hand, right wrist, right forearm, right shoulder, and neck from performing her data entry activities at work, and that she had disability from _____, through February 1, 2002. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she had disability as defined by Section 401.011(16). Conflicting evidence, including conflicting medical evidence, was presented on the disputed issues. 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.

In the Statement of the Evidence portion of her decision, the hearing officer wrote that, based on all of the evidence and testimony, she concluded that the claimant sustained an injury in the course and scope of employment to her right wrist in the form of tendonitis as a result of her repetitive keyboarding at work, but that the claimant did not sustain her burden regarding an injury to her neck, right forearm, and right shoulder. The hearing officer found that on _____, the claimant sustained an injury to her right wrist in the form of tendonitis as a result of the repetitive job duties she performed for the employer, and that she did not sustain an injury to her neck, right forearm, and right shoulder. The hearing officer concluded that on _____, the claimant sustained a compensable repetitive trauma injury to her right wrist in the form of tendonitis, and that she did not sustain an injury to her neck, right forearm, and right shoulder. Although there is conflicting evidence in this case, we conclude that the hearing officer's finding and conclusion with regard to the claimed repetitive trauma injury are supported by sufficient evidence and are 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). We also conclude that the hearing officer's determination on

the disability issue is supported by sufficient evidence and is not against the great weight and preponderance of the evidence.

We reform the hearing officer's decision on the injury issue to conform to her finding of fact and conclusion of law. Accordingly, we reform that portion of the hearing officer's decision that addresses the injury to state that on _____, the claimant sustained a compensable repetitive trauma injury to her right wrist in the form of tendonitis, and that the claimant did not sustain an injury to her neck, right forearm, and right shoulder. There is no change to the disability portion of the decision.

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

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

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Roy L. Warren
Appeals Judge