

APPEAL NO. 021276  
FILED JULY 8, 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 April 17, 2002. With regard to the issues before her, the hearing officer determined that the appellant (claimant) did not suffer a compensable injury in the form of an occupational disease; that the date the claimant knew or should have known the disease may be related to the employment, was \_\_\_\_\_; that the claimant failed to timely report this injury to his employer, relieving the respondent (carrier) from liability pursuant to Section 409.002; that the claimant failed to timely file a claim for compensation with the Texas Workers' Compensation Commission (Commission) within one year, as required by Section 409.003; and that the claimant did not have disability. The claimant appeals on sufficiency of the evidence and abuse of discretion grounds. The carrier responds, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in her determinations on the issues of repetitive trauma injury, date of injury, timely notice of injury, timely filing of a compensation claim, and disability. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 409.003 an employee or a person acting on the employee's behalf shall file with the Commission a claim for compensation for an injury not later than one year after the date on which the injury occurred, or, if the injury is an occupational disease, the employee knew or should have known that the disease was related to the employee's employment. Section 401.011(16) defines "disability" as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Conflicting evidence was presented on the issues of repetitive trauma injury, date of injury, timely notice to the employer, timely filing of a compensation claim, and disability. 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 from the evidence presented. We conclude that the hearing officer's determinations on the issues of repetitive trauma injury, date of injury, timely notice to the employer, timely filing of a compensation claim, and disability 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. Accordingly, we affirm those determinations of the hearing officer.

We have reviewed the claimant's contention that the hearing officer abused her discretion in determining the disputed issues, and we are satisfied that the hearing officer did not abuse her discretion in determining the issues of repetitive trauma injury, date of injury, timely notice to the employer, timely filing of a compensation claim and disability. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

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

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge