

APPEAL NO. 021577
FILED AUGUST 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on May 29, 2002. The hearing officer made a number of factual findings relating to the two disputed issues, namely, the date of the respondent's (claimant) injury and the timeliness of the notice to the employer of the injury. The hearing officer concluded that, pursuant to Section 408.007, the date the claimant first knew or should have known that her disease of carpal tunnel syndrome (CTS) may be related to her employment is _____, and, that the claimant timely notified her employer pursuant to Section 409.001. The appellant (carrier) has filed a request for review, challenging the sufficiency of the evidence to support any of the pertinent factual findings and also challenging the dispositive legal conclusions. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant testified that sometime in _____, while performing her work consisting of typing data into a computer, she experienced some cramping in her hands; that at a meeting of the employees in her unit sometime that month, she mentioned the cramping in her hands and was told by two coworkers that they had experienced similar symptoms but had not sustained an injury; that the cramping resolved; that in _____, she experienced some tingling and numbness in her hands but these symptoms also resolved; and that on _____, she had severe pain, tingling, and cramping in her hands, suspected it was caused by the typing, and visited Dr. H who diagnosed her with CTS which he attributed to her work. The claimant said she did not realize she had a work-related injury until so advised by Dr. H because the two prior episodes of hand symptoms involved different and less severe symptoms which resolved. The claimant further stated that she reported this injury to Ms. M, a manager, on _____, and the evidence, including the testimony of Ms. M, amply corroborates this testimony. Mr. W, the claimant's supervisor, testified that at the employee meeting in _____, the claimant did not report any problems with her hands, or with her typist job, or her workstation, and that he first learned on _____, from Ms. M that the claimant was claiming a work-related injury. He also mentioned that the employer modified the claimant's job and that she is a very good employee and has returned to work full time.

The two findings on the date of injury state as follows:

FINDINGS OF FACT

8. Because coworkers told Claimant at the _____ monthly meeting that they had been typing but had not sustained an injury, the date of the _____ monthly meeting was not the date when Claimant knew or should have known that her disease may be related to her employment.
9. _____ was the date Claimant first knew or should have known her disease of [CTS] may be related to her employment, because this was the date when Claimant first realized her symptoms were lasting and significant and because Claimant did not previously understand that her condition may be related to her employment because coworkers said that they typed but were not injured.

These findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust (Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986)), and they sufficiently support the legal conclusion that “[t]he date of injury pursuant to [Section 408.007], the date Claimant first knew or should have known the disease may be related to the employment is _____.”

The hearing officer made four factual findings relating to the timely notice issue. Finding of Fact No. 7 states that “Claimant reported her [CTS] as a work related injury to Employer or a person in a supervisory or management position with Employer, when she told [Ms. M] on _____ that she had developed [CTS] due to the work that Claimant did.” This finding is sufficiently supported by the evidence, including the testimony of the claimant and Ms. M, and adequately supports the conclusion that “Claimant timely notified her Employer pursuant to [Section 409.001.]” Finding of Fact Nos. 4 through 6 are, at the very least, confusing and contradictory of Finding of Fact No. 7, if not altogether incomprehensible. They seem to be premised on the possibility that the Appeals Panel might find a date of injury in _____, and we disregard them as mere surplusage.

The decision and order of the hearing officer are affirmed.

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

**C T CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge