

APPEAL NO. 021633
FILED AUGUST 13, 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 June 6, 2002. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable repetitive trauma injury on or about _____, and did not have any disability. The claimant appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that she has worked in the housekeeping department for the employer since she was hired seven years ago. She testified that her job duties included vacuuming, mopping, dusting, lifting, and cleaning. A "repetitive trauma injury" is an injury, which occurs "as the result of repetitious, physically traumatic activities that occur over time and arise out of the course and scope of employment." Section 401.011(36). To establish a repetitive trauma injury, a claimant must present evidence that he or she is engaged in essentially the same trauma-producing conduct that is reasonably frequent, that is, repetitive in nature. Texas Workers' Compensation Commission Appeal No. 94941, decided August 25, 1994. Whether a repetitive trauma injury has been established is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93057, decided February 25, 1993. The claimant testified that her job entailed the performance of several different activities over the course of the day. The hearing officer could conclude, however, that the activities which the claimant described were not sufficiently repetitive so as to cause the claimed injury. We will reverse a factual determination of a hearing officer only if that determination is 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, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we find there is sufficient evidence to support the hearing officer's determinations that the claimant's duties did not require motion of her left arm that was sufficiently repetitive to cause damage or harm to her left shoulder and that she did not sustain a compensable repetitive injury.

The hearing officer did not err in determining that the claimant did not have disability. The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

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

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

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge