

APPEAL NO. 021790
FILED AUGUST 30, 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 18, 2002. The record was held open one day for submission of the respondent's (carrier) information sheet. The hearing officer determined that the appellant's (claimant) date of injury (DOI) pursuant to Section 408.007 was "no later than _____," (all dates are 2001 unless otherwise noted); that the claimant sustained what would otherwise have been a compensable injury had it been timely reported; that the claimant failed to timely report his injury and did not have good cause for failing to do so; that because there was no compensable injury there was no disability; and that the claimant was not entitled to change treating doctors pursuant to Section 408.022.

The claimant appealed all the adverse determinations on a sufficiency of the evidence basis citing evidence which could support his position. The carrier responded, urging affirmance.

DECISION

Affirmed, as reformed.

The disputed issues largely consisted of factual determinations for the hearing officer to resolve. The claimant was an air conditioning and heating service technician. The hearing officer recites that the claimant's job required extensive, repetitive hand use. It is undisputed that the claimant was treated in a hospital emergency room (ER) on June 24 and the ER record shows the examination "suggests carpal tunnel syndrome." The claimant contends this was only for the right hand. Other medical records indicate all of the claimant's symptoms "started back in _____" and included "the left [hand] but to a lesser extent." Other medical records recite a DOI of _____ but the claimant testified that those forms were blank when he signed them. The evidence was in conflict and we hold that the hearing officer's determination of a DOI not later than _____ is supported by the evidence. The parties stipulated that the claimant reported his injury claiming a work-related left wrist injury on _____.

The claimant saw several doctors and on November 2 sought to change treating doctors giving as his reason "Doctor has not called or scheduled any type of appointment since initial visit. Still in pain and not receiving treatment." The Texas Workers' Compensation Commission denied the request on November 20. We review cases regarding requests to change treating doctors on an abuse of discretion standard. As such, we look to see whether the hearing officer acted without reference to any guiding rules or principles. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). The hearing officer did not abuse her discretion in this determination.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We hold that the hearing officer's determinations 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).

We reform the hearing officer's decision only to the extent that there is a date certain for the DOI. Consequently we reform the hearing officer's determinations by the deletion of the words "not later than" before the date of _____, in Finding of Fact No. 2 and Conclusion of Law No. 3.

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

The true corporate name of the insurance carrier is **ADVANTAGE WORKERS' COMPENSATION INSURANCE COMPANY** 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.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge