

APPEAL NO. 022561
FILED NOVEMBER 20, 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 (CCH) was held on September 13, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury of _____; that the claimant timely notified her employer as required by Section 409.001; and that the claimant had disability from April 8 to May 27, 2002. The appellant (carrier) appeals, disputing a single finding of fact and a single conclusion of law. The carrier argues that the hearing officer's finding that the claimant sustained a bilateral carpal tunnel syndrome (BCTS) injury due to using her hands to open, lift, and tear apart boxes as a part of her job duties for employer, and the determination that on _____, the claimant sustained a compensable injury in the form of an occupational disease, were against the great weight and preponderance of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." The claimant claimed a repetitive trauma injury in the form of BCTS from performing her work activities.

The claimant had the burden to prove that she sustained a repetitive trauma injury during the course and scope of her employment. Davis v. Employers Insurance of Wausau, 694 S.W.2d 105 (Tex. Civ. App.-Houston [14th Dist.] 1985, writ ref'd. n.r.e.). Conflicting evidence was presented at the CCH with regard to the issue of whether the claimant sustained an occupational disease. 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. We conclude that the hearing officer's finding that the claimant has sustained a BCTS injury due to using her hands to open, lift, and tear apart boxes as a part of her job duties for employer and the determination that on _____, claimant sustained a compensable injury in the form of an occupational disease, 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 affirm the decision and order of the hearing officer.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge