

APPEAL NO. 022739
FILED DECEMBER 17, 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 October 9, 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; that the date of injury is _____; that the claimant timely reported his injury to the employer; that the appellant (carrier) timely contested compensability; and that the claimant had disability that started on February 7, 2002, and had not ended as of the date of the CCH. The carrier appealed on sufficiency of the evidence grounds and the claimant responded. The carrier's timely contest of compensability determination has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in his determinations on the issues of occupational disease injury, date of injury, timely notice of injury, 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 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 occupational disease injury, date of injury, timely notice to the employer, 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 occupational disease injury, date of injury, timely notice to the employer, 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 affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Veronica Lopez
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge