

APPEAL NO. 022834
FILED DECEMBER 18, 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 8, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury; that the date of the claimed injury was _____; that because the claimant did not sustain a compensable injury, the claimant did not have disability; and that the claimant did not fail to timely notify her employer pursuant to Section 409.001. The claimant appeals the hearing officer's compensable injury and disability determinations. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant claimed a repetitive trauma injury to her right wrist in the form of carpal tunnel syndrome from performing her work activities as a custodian. Section 401.011(36) defines a "repetitive trauma injury" 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 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.). The trier of fact may believe that a claimant has an injury, but disbelieve that the injury occurred as the result of work activities as claimed by the claimant. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented at the CCH. 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. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Because we affirm the hearing officer's determination on compensability, we likewise affirm the determination that the claimant did not have disability. As a matter of law, a claimant may not have disability without first sustaining a compensable injury. See Section 401.011(16).

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:

Chris Cowan
Appeals Judge

Susan M. Kelley
Appeals Judge