

APPEAL NO. 022935
FILED JANUARY 2, 2003

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 15, 2002. The appellant (claimant) appeals the hearing officer's determinations that she did not sustain a compensable injury in the form of an occupational disease. The respondent (self-insured) responds, urging affirmance. The hearing officer's determinations that the date of the alleged injury is _____, and that the claimant timely notified her employer have not been appealed and have become final.

DECISION

We affirm the hearing officer's decision.

The claimant had the burden to prove by a preponderance of the evidence that she sustained an occupational disease injury. At the CCH, the claimant contended that her conditions were caused by or aggravated by exposure to mold spores that were present in the classroom where she worked for about 12 years. The definition of occupational disease excludes an ordinary disease of life to which the public is exposed outside of employment. Section 401.011(34). The Appeals Panel has also required that the necessary proof of causation be established to a reasonable medical probability by expert evidence in cases such as the one we here consider where the subject matter is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Texas Workers' Compensation Commission Appeal No. 93774, decided October 10, 1993; Texas Workers' Compensation Commission Appeal No. 94815, decided August 4, 1994. See also Hernandez v. Texas Employers Insurance Association, 783 S.W.2d 250 (Tex. App.-Corpus Christi 1989, no writ).

Whether the claimant sustained the occupational disease injuries she alleged was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, is to resolve the conflicts and inconsistencies in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The discussion of the hearing officer alludes to evidence that mold concentration outside was greater than in the classroom such that the allergic reaction would be an ordinary disease of life. As an appellate-reviewing body, we will not disturb the challenged findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS PUBLIC WORKERS COMPENSATION PROGRAM** and the name and address of its registered agent for service of process is

**JERRY EDWARDS
101 HIGHWAY 281, SUITE 304
MARBLE FALLS, TEXAS 78654.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge