

APPEAL NO. 022998
FILED JANUARY 15, 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 was held on October 28, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable repetitive trauma injury; that the date of injury under Section 408.007 is _____; that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified the employer of her injury under Section 409.001; that the claimant had disability from August 29 through September 30, 2002; and that the carrier's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) was sufficiently specific to contest compensability based on timely reporting of the injury to the employer. The carrier has appealed the hearing officer's determinations that the date of injury is _____, and that it is not relieved of liability under Section 409.002 because the claimant timely notified her employer of the injury under Section 409.001. The carrier contends that the date of injury should be in December 2001, and thus the claimant's notice of injury to her employer on June 5, 2002, was not timely. There is no appeal of the hearing officer's determinations on the other disputed issues.

DECISION

The hearing officer's decision is affirmed.

An occupational disease includes a repetitive trauma injury. Section 401.011(34). 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 408.007. If an 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 409.001(a).

In the instant case, the hearing officer determined that _____, was the date the claimant knew or should have known that the injury may be related to the employment. The hearing officer's determination is supported by the claimant's testimony. 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. It is undisputed that the claimant reported the work-related injury to her employer on June 5, 2002, which was within 30 days of the _____, date of injury determined by the hearing officer. We conclude that the appealed determinations on the issues of the date of injury and timely reporting to the employer 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** 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.**

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Roy L. Warren
Appeals Judge