

APPEAL NO. 030039
FILED JANUARY 30, 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 December 2, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury or a compensable repetitive trauma injury; that the date of injury pursuant to Section 408.007 was _____; that the respondent (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified his employer of his injury under Section 409.001; and that the claimant has not had disability. The claimant appealed the hearing officer's decision that he did not sustain a compensable injury or a compensable repetitive trauma injury and that he has not had disability. The carrier responded, requesting affirmance. There is no appeal of the hearing officer's determinations on the issues of the date of injury or notice of injury.

DECISION

As reformed herein, the hearing officer's decision is affirmed.

We reform the hearing officer's decision to include the issue of disability in the list of the disputed issues at the CCH. We reform Finding of Fact 1.B. to reflect that the parties stipulated that Association Casualty Insurance Company was the workers' compensation insurance carrier for the employer on all dates in dispute.

The claimant had the burden to prove that he sustained a compensable injury. The claimant claimed that he sustained 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." Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. 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 appealed determinations 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). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision and order, as reformed herein, are affirmed.

The true corporate name of the insurance carrier is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**HAROLD FISHER, PRESIDENT
3420 EXECUTIVE CENTER DRIVE, SUITE 200
AUSTIN, TEXAS 78731.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Terri Kay Oliver
Appeals Judge