

APPEAL NO. 030232
FILED MARCH 19, 2003

This appeal after remand 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 2, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury; that the date of injury for the alleged repetitive trauma injury is _____; that claimant gave timely notice to his employer of the alleged injury; and that since claimant did not sustain a compensable injury, he did not have disability. Both parties appealed. Claimant appealed the compensable injury and disability determinations, arguing that the hearing officer applied the wrong standard in determining the compensability issue. Claimant maintained that repetitious trauma injuries may be proven solely by lay testimony and that expert testimony was not required regarding causation. Respondent (carrier) responded, arguing that there is sufficient evidence to support the compensability and disability determinations. Carrier appealed the determinations regarding date of injury and timely reporting, arguing that these determinations were so against the great weight and preponderance of the evidence as to be manifestly erroneous and unjust. Claimant urged affirmance of the challenged determinations in his response. In Texas Workers' Compensation Commission Appeal No. 022742, decided December 10, 2002, the Appeals Panel affirmed the determinations regarding date of injury and timely notice, but reversed and remanded regarding compensability and disability. The Appeals Panel stated that expert testimony is not required regarding causation because the question of causation is not beyond common knowledge in this particular case. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). The Appeals Panel reversed the compensability determination for the hearing officer to reconsider the compensability issue consistent with its decision. The Appeals Panel also remanded the disability issue because it had remanded regarding compensability. The hearing officer did not hold a hearing on remand. In his decision on remand, the hearing officer determined, essentially, that claimant did not meet his burden of proof regarding causation. The hearing officer determined that claimant did not sustain a compensable repetitive trauma injury and that he did not have disability. Claimant again appeals on sufficiency grounds and also contends that the hearing officer's compensability determination is not consistent with the date of injury determination affirmed by the Appeals Panel. The file does not contain a response from carrier.

DECISION

We affirm.

Claimant contends that the hearing officer's determination regarding compensability is inconsistent with the determination regarding date of injury affirmed by the Appeals Panel. We disagree. The Appeals Panel affirmed the determination that the date of injury for the alleged or claimed repetitive trauma injury is _____.

The fact that the hearing officer has persisted in finding that there was no compensable injury as alleged by claimant does not conflict with this finding.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. He determined that claimant did not meet his burden of proof in this case. He also determined that claimant did not have disability because there is no compensable injury. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by the carrier, the true corporate name of the insurance carrier is **UNITED STATES FIDELITY AND GUARANTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge