

APPEAL NO. 030340
FILED MARCH 21, 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 January 21, 2003. This case involved two docket numbers for two separate injuries. In (Docket No. 1) (the (date of injury for Docket No. 1), injury), the hearing officer determined that the respondent (claimant) had not sustained a compensable injury "on (date of injury for Docket No. 1), (date of injury for Docket No. 2), or on any other relevant date"; that the claimant had failed to give timely notice of the alleged injury to the employer pursuant to Section 409.001 and that the claimant did not have good cause for failing to do so; and that the claimant did not have disability. The hearing officer's determinations regarding the (date of injury for Docket No. 1), injury have not been appealed and have become final pursuant to Section 410.169.

With regard to (Docket No. 2), the hearing officer determined that the claimant sustained a compensable (specific event) injury on (date of injury for Docket No. 2), "pulling down a single box" and that the claimant had disability from May 24, 2002, through the date of the CCH. The appellant (carrier) appealed, contending that the evidence failed to establish that the claimant suffered a compensable right shoulder injury or had disability. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, an employee of an electronics firm, testified that she injured her right shoulder reaching up and pulling down a box of electronic parts on (date of injury for Docket No. 2). The claimant sought medical treatment the next day, May 24, 2002, and was taken off work. The claimant was assessed as having a "Rotator cuff syndrome R/O internal derangement" and a right shoulder sprain/strain. The carrier's appeal stresses that the MRI was "unremarkable" and that the claimant's inability to obtain and retain employment was due to the claimed (date of injury for Docket No. 1), repetitive trauma injury which was found not compensable.

The question of whether the claimant sustained a compensable injury and whether she had disability presented questions 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). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the

evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**C T CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Daniel R. Barry
Appeals Judge