

APPEAL NO. 030562
FILED APRIL 24, 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 February 7, 2003. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) date of injury was _____; that the claimant sustained a compensable repetitive trauma injury; that the appellant (self-insured) is not relieved from liability under Section 409.002 because the claimant timely notified her employer in accordance with Section 409.001; and that the claimant had disability beginning on October 2, 2002, and continuing through the date of the CCH. The self-insured appealed, arguing that the evidence supports that the date of injury should be as early as _____; that there is no evidence based on reasonable medical probability that the claimant's condition is related to her work; that the claimant did not timely notify her employer; and that there is no evidence to support a compensable injury nor is there any evidence to support the finding that the claimant is unable to work as a result of the alleged injury. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had the burden to prove that she sustained a compensable injury, that she gave timely notice of injury to the self-insured, and that she has had disability. The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities as a bus driver for the self-insured. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that 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 409.001(a) provides that, if the 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 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Differing medical opinions were provided at the CCH regarding the causation of the claimant's condition. Conflicting evidence was presented at the CCH. 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 from the evidence presented. We conclude that the hearing officer's determinations on the disputed issues 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).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CR
(ADDRESS)
(CITY) TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Roy L. Warren
Appeals Judge