APPEAL NO. 031941
FILED SEPTEMBER 4, 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 June 17, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) did sustain a compensable injury on _____, and that the appellant (carrier) is not relieved from liability under Section 409.002 because the claimant timely notified her employer pursuant to Section 409.001. The carrier appealed, arguing that the claimant's condition does not rise to the level of occupational disease; that the medical evidence regarding causation is merely conclusory and not based on undisputed critical facts; that the claimant's condition is merely a continuation of a prior injury; and that the claimant should have known her conditions may be work related in November of 2002 and, therefore, she did not timely notify her employer relieving the carrier of liability. The carrier additionally contends that the hearing officer's findings of fact were insufficient because they failed to establish repetitiveness, trauma, or how the claimant's condition rises to the level of an occupational disease. 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 and that she gave timely notice of injury to her employer. The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities for the employer. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). 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.

The claimant testified that she had similar symptoms to her current condition in October of 2001 but that she went to see a massage therapist and the symptoms had resolved by January of 2002. The claimant testified that her job duties required her to input data into the computer 90% of her workday and that on _____, she experienced shooting pains to her arm while she was typing. The hearing officer noted that the medical records and the claimant's testimony were sufficient to establish that the claimant sustained a repetitive trauma injury on _____. In evidence was an employer's report of injury dated February 21, 2003.

Conflicting evidence was presented on the disputed issues of whether the claimant sustained a compensable injury in the form of an occupational disease and whether she timely notified her employer. The hearing officer is the sole judge of the

weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Although another fact finder may have drawn different inferences from the evidence, which would have supported a different result, that fact does not provide a basis for us to reverse the hearing officer's decision on appeal. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

Additionally, the carrier asserts that the hearing officer failed to comment on the claimant's chronic back and neck pain, spondylosis, and disc displacement, and the fact that the claimant was on hormone replacement therapy, in determining the disputed issues. The Appeals Panel stated that the 1989 Act does not require that the Decision and Order of the hearing officer include a statement of the evidence and that omitting some of the evidence from a statement of the evidence did not result in error. Texas Workers' Compensation Commission Appeal No. 000138, decided March 8, 2000, citing Texas Workers' Compensation Commission Appeal No. 94121, decided March 11, 1994. The failure to summarize all of the evidence in the Decision and Order does not indicate reversible error. We find no merit in the carrier's contention that the hearing officer did not take into account all of the evidence presented at the CCH.

We affirm the decision and order of the hearing officer.

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

For service in person the address is:

RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.

For service by mail the address is:

RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Robert W. Potts
Appeals Judge