

APPEAL NO. 031998
FILED SEPTEMBER 11, 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 was held on June 23, 2003. The hearing officer resolved the disputed issues by deciding that _____, is the date of the appellant/cross-respondent's (claimant) claimed injury pursuant to Section 408.007, the date the claimant knew or should have known that the disease might be related to her employment; that the claimant did not sustain a compensable injury in the form of an occupational disease; that because the claimant did not sustain a compensable injury, she did not have disability; that the respondent/cross-appellant (carrier 2) is not relieved from liability under Section 409.002 because the claimant timely notified her employer pursuant to Section 409.001 of the claimed injury; and that respondent (carrier 1) was not the carrier on the date of the alleged injury, so being relieved from liability because of the claimant's timely or untimely notice is not relevant to carrier 1. The claimant appealed the hearing officer's determination that she did not sustain a compensable injury in the form of an occupational disease and therefore, did not have disability. Carrier 2 responded, urging affirmance of those determinations. Carrier 2 appealed the hearing officer's determinations regarding the date of injury and timely notice to the employer. The appeal file does not contain a response from the claimant or carrier 1.

DECISION

Affirmed.

The claimant had the burden to prove the date of injury pursuant to Section 408.007; that she sustained a compensable injury in the form of an occupational disease as defined in Section 401.011(34); that she gave timely notice of injury to the employer pursuant to Section 409.001; and that she has had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues. 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. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, 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. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The true corporate name of insurance carrier 1 is **NATIONWIDE AGRIBUSINESS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

The true corporate name of insurance carrier 2 is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Elaine M. Chaney
Appeals Judge