

APPEAL NO. 033101
FILED JANUARY 21, 2004

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 October 31, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease (repetitive trauma injury); that the date of injury pursuant to Section 408.007 was _____; that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified her employer of her claimed injury pursuant to Section 409.001; and that the claimant had disability as a result of her compensable injury from May 14 through August 13, 2003, and from September 15, 2003, through the date of the CCH. The carrier appeals, contending that the hearing officer's determinations on the disputed issues are against the great weight and preponderance of the evidence. No response was received from the claimant.

DECISION

Affirmed.

The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities, that she timely notified her employer of the injury, and that she had disability as a result of her injury. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36); that she had disability as defined by Section 401.011(16); and that she timely notified her employer of her injury pursuant to Section 409.001(a)(2). Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury. 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)(2) 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 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. Although there is conflicting evidence with regard to the disputed issues, we conclude that the hearing officer's determinations in favor of the claimant on the appealed issues of occupational disease, date of injury, timely notice to the employer, and disability are supported by the claimant's testimony and medical records and that those determinations 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 hearing officer's decision and order.

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

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

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge