

APPEAL NO. 033187
FILED JANUARY 22, 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 was held on November 12, 2003. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained an occupational disease injury in the form of right carpal tunnel syndrome, right lateral epicondylitis, and right cubital tunnel syndrome; that the date of injury is _____; that the respondent (self-insured) is relieved of liability for the claimant's occupational disease because the claimant failed, without good cause, to timely report her injury to her employer pursuant to Section 409.001; and that the claimant did not have disability. In her appeal, the claimant asserts error in the hearing officer's date-of-injury, notice, and disability determinations. In its response to the claimant's appeal, the self-insured urges affirmance. The hearing officer's determination that the claimant sustained a work-related occupational disease injury in the form of right carpal tunnel syndrome, right lateral epicondylitis, and right cubital tunnel syndrome has not been appealed and that determination has, therefore, become final. Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove the date of the injury of her occupational disease injury as defined by Section 408.007, and that she timely notified her employer of her claimed injury pursuant to Section 409.001(a). 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. The claimant testified that she first noticed symptoms of her occupational disease on March 1, 2003; that the symptoms persisted and in fact worsened over time; that she filled out an injury report with her employer on July 7, 2003; and that she didn't actually know her symptoms were related to her employment until July 22, 2003. The hearing officer noted in his Statement of the Evidence that he was not persuaded by the claimant's testimony that she did not make some connection between her work activities and her right upper extremity condition well before July 7, 2003. 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 in this case, we conclude that the hearing officer's date-of-injury and notice determinations 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. Accordingly, no sound basis exists for us to reverse the challenged determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the carrier is relieved of liability in this instance and, thus, that the claimant did not sustain a compensable injury, we likewise affirm the determination that the claimant did not have disability within the meaning of the 1989 Act. By definition, the existence of a compensable injury is a prerequisite to a finding of disability.

The hearing officer's decision and order are affirmed.

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 WEST 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.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge