

APPEAL NO. 033207
FILED JANUARY 12, 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. The hearing officer determined that the appellant/cross-respondent (claimant) sustained a work-related repetitive injury; that the date of the injury was _____; that the claimant failed to notify his employer of the injury within 30 days of _____, and did not have good cause for failing to do so; and that because timely notice was not given, the injury is not compensable and the claimant did not have disability. The claimant appealed the hearing officer's decisions "due to misrepresentation of my case." The respondent/cross-appellant (carrier) conditionally appealed the determination that the claimant sustained a work-related repetitive trauma injury and, additionally, responded to the claimant's appeal, urging affirmance of the determinations that were adverse to the claimant.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. Whether the claimant's work activities were sufficiently repetitive to cause an injury, when the claimant knew or should have known that injury may have been related to his employment, and whether he timely notified his employer of the injury were factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer was persuaded by the evidence that the claimant sustained a repetitive trauma injury in the course and scope of his employment; that the date of injury was _____; that he failed to give timely notice of the injury to his employer; and, due to the lack of timely notice, the injury is not compensable and the claimant did not have disability. Nothing in our review of the record indicates that the hearing officer's determinations on these disputed issues are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

With regard to the claimant's complaint on appeal that he was "misrepresented" about his case, we note that the Appeals Panel does not have jurisdiction to address such contention, as it is essentially a matter between the claimant and his

representative. Texas Workers' Compensation Commission Appeal No. 94030, decided February 15, 1994.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge