

APPEAL NO. 033348  
FILED FEBRUARY 18, 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 21, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury of \_\_\_\_\_; that the claimant has disability resulting from the injury sustained on \_\_\_\_\_, from January 17, 2003, through the date of the hearing; and that the appellant (carrier) is not relieved from liability under Section 409.002, because of the claimant's timely notification to her employer pursuant to Section 409.001. The carrier has appealed the injury and disability determinations on evidentiary sufficiency grounds, asserting, among other things, that the claimant's duties were not sufficiently physically traumatic. The appeal file does not contain a response to the carrier's appeal from the claimant. The hearing officer's determination regarding timely notice has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The claimant testified that she developed bilateral carpal tunnel syndrome (CTS) as a result of the repetitive nature of her job duties as a customer service representative. She further testified that due to her bilateral CTS, she has been unable to perform her job since being taken off work by her doctor on January 17, 2003. The claimant testified that she has had CTS surgery on each hand; that her symptoms have returned; that she is currently in physical therapy; and that she may require additional surgery. The carrier presented evidence to establish that the claimant's job was neither repetitive nor traumatic, and therefore, the claimant's bilateral CTS is not work related.

Conflicting evidence was presented at the hearing on the disputed issues. The carrier contends that the claimant did not sustain an occupational disease injury because her job was not repetitive or traumatic. Whether or not the claimant sustained a compensable injury and had disability presented questions of fact for the hearing officer to resolve. The hearing officer clearly believed the claimant's testimony regarding the repetitive nature of her job and it is the hearing officer who is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The carrier's appeal on the disability issue is predicated on a finding that the sole cause of the claimant's inability to obtain and retain her preinjury wages was due to an unrelated medical condition. In the instant case, there is sufficient evidence for the hearing officer to find that the claimant's compensable injury was a cause of her disability for the period found. 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 decision is supported by sufficient evidence and that it is 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge