

APPEAL NO. 040293
FILED MARCH 15, 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 December 15, 2003. The hearing officer resolved the disputed issues by determining that: (1) appellant (claimant) did not sustain a compensable injury in the form of an occupational disease; (2) the date of injury is _____; (3) claimant failed to timely notify her employer of a work-related injury, but respondent (carrier) is not relieved of liability because this issue was waived by carrier; (4) claimant did not have disability; and (5) carrier did not specifically and timely contest compensability on the issue of timely reporting the injury to the employer within 30 days of the date of injury pursuant to Section 409.001 and the date of injury, pursuant to Section 409.022. Claimant appealed the hearing officer's determinations regarding injury, date of injury, timely notice, and disability on sufficiency of the evidence grounds. Carrier responded, urging affirmance. The hearing officer's determination regarding waiver has not been appealed and has become final. Section 410.169.

DECISION

We affirm.

Claimant complains that the hearing officer misconstrued the report of Dr. H. However, it is possible that the hearing officer read Dr. H's report and interpreted it as saying that Dr. H considered the claimed "overuse" injury and the medical evidence in that regard and Dr. H thought claimant's current condition of pain was made worse by work, but that the work did not cause the underlying degenerative disc disease and arthritis to become worse. The hearing officer could believe that Dr. H thought claimant had degenerative disc disease and arthritis, that work did not cause or worsen those conditions, but that working made her pain condition worse. The hearing officer was the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, he resolved the conflicts and inconsistencies in the evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are supported by the record and are not 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, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier 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.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge