

APPEAL NO. 041064  
FILED JUNE 14, 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 April 14, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that the claimant did not timely notify the employer of the claimed injury and did not have good cause for failing to do so.

The claimant appeals, contending that a report from her treating doctor establishes that she sustained a compensable injury and explaining the circumstances why she had not timely reported the injury. The respondent (carrier) responds, urging affirmance.

#### DECISION

Affirmed.

The claimant, an eighth grade school teacher, testified that on \_\_\_\_\_, she was preparing her room for the beginning of school and was stapling posters to a wall when the stapler "ricocheted" or popped out of her hand hitting her right wrist. It is relatively undisputed that the claimant did not report the injury to the employer until November 14, 2003. It is also undisputed that the claimant has had three other workers' compensation claims to her knee and back, which had occurred in March, April, and May 2003, pending in the August/October 2003 time frame and had the assistance of an attorney for those claims. The claimant testified that she had discussed her August 2003 wrist injury with the attorney but that he refused to take the case. The claimant was eventually diagnosed with a right wrist ganglion cyst with possible De Quervain's tenosynovitis.

On the issue of whether the ganglion cyst and possible De Quervain's tenosynovitis constituted a compensable injury, the only medical evidence regarding causation is a note from the treating doctor stating that the claimed condition "could have been initiated or exacerbated" by the stapler incident. The hearing officer found that note was not sufficient evidence to prove the stapler incident caused some injury or medical condition in the wrist. The hearing officer's determination on this issue is supported by the evidence.

The majority of the CCH (and appeal) dealt with why the claimant did not timely (within 30 days pursuant to Section 409.001) report her injury to the employer. The gist of the claimant's position is that because she had three other claims pending she felt intimidated from reporting another claim, that she did not want the "hassle" of dealing with the adjuster (who had initially denied her other claims) again, and that there was an agreement on her other claims pending which she did not want to jeopardize. The

claimant signed the agreement regarding her other claims on October 30, 2003, and two weeks later reported her \_\_\_\_\_, wrist injury. The hearing officer determined that the claimant had not timely notified her employer (pursuant to Section 409.001) of the claimed injury and did not have good cause for failing to do so.

We note that the claimant's appeal expounds and expands on her testimony at the CCH and we have considered only the evidence presented to the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CLAIMS SERVICE  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge