

APPEAL NO. 041186
FILED JULY 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 May 5, 2004. The hearing officer determined that: (1) the date of injury (DOI), pursuant to Section 408.007, the date the employee knew or should have known the disease may be related to the employment, was _____; (2) the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease in the form of bilateral carpal tunnel syndrome; (3) the respondent (carrier) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify the employer pursuant to Section 409.001; and (4) the claimant did not have disability. The claimant appealed the adverse determinations based on sufficiency of the evidence grounds. The carrier responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in his determinations on the issues of DOI, repetitive trauma injury, timely notice of injury, and disability. Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 409.001(a)(2) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. There was conflicting evidence. 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 from the evidence presented. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and are 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 is affirmed.

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
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge