

## APPEAL NO. 990508

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 February 16, 1999. The issues at the CCH were: was the appellant's (carrier) contest of extent of injury based on newly discovered evidence that could not reasonably have been discovered at an earlier date, thus allowing the carrier to reopen the issue of extent of injury, and does the \_\_\_\_\_, injury include a C5-6 cervical disc herniation. The hearing officer found that the carrier should be allowed to reopen the issue of extent of injury and that respondent's (claimant) \_\_\_\_\_, injury includes a C5-6 cervical disc herniation. The carrier appeals only the findings of fact and a conclusion of law that claimant's \_\_\_\_\_, injury includes a C5-6 cervical disc herniation. The claimant urges that the hearing officer's decision should be affirmed.

### DECISION

Affirmed.

The claimant testified that she sustained a repetitive trauma injury as a result of her work for employer which consisted of building parts for oil rigs. The claimant testified that her work required her to pull, stretch, and compress rubber materials, causing an injury to her neck, shoulders, arms and hands. The carrier accepted a repetitive trauma, bilateral carpal tunnel syndrome (BCTS) claim, with a date of injury of \_\_\_\_\_.

The claimant testified that her symptoms began in September 1997 with pain shooting from her fingers up her arm, into her shoulders and she could not bend two fingers. The claimant first sought medical treatment with a company doctor and was dissatisfied, so she sought medical treatment with Dr. H on October 7, 1997. Dr. H's letter to the carrier on that date indicates that claimant had bilateral hand pain and numbness and his impression was BCTS. The claimant continued to treat with Dr. H and underwent left carpal tunnel surgery on October 23, 1997. In a letter dated November 3, 1997, Dr. H states "she has a lot of tension in her upper back related, I feel, to the [BCTS]." The claimant was also given a prescription to be taken "p.r.n. upper back, neck and shoulder spasm" and was prescribed physical therapy. The physical therapy notes indicate the claimant complained of pain in her shoulder, scapular, and mid back area.

The claimant testified that after the surgery, she did not improve. Dr. H believed claimant was showing signs of reflex sympathetic dystrophy (RSD) and delayed performing right carpal tunnel surgery. In February 1998, the carrier had the claimant examined by Dr. T, who believed the claimant did not have RSD. Dr. T noted that the claimant had pain in her upper back, between her shoulders and pain into the shoulders and down the arms. Dr. H referred claimant to Dr. M, a neurologist, who examined claimant on April 28, 1998, and noted "her main problem is neck pain radiating to the shoulder area, posterior aspect of her shoulder, radiating mostly down left shoulder. All of her fingers are numb in both

hands. Walking, sitting or standing increases her neck pain." Dr. M ordered an MRI of claimant's neck which revealed a cervical abnormality at C5-6.

The hearing officer determined that the claimant's \_\_\_\_\_, injury includes a C5-6 cervical disc herniation. The carrier argues that the long span of time that elapsed before the claimant's neck complaints arose in the medical records prevents any causal connection from being made by and between the compensable injury and such neck complaints. This is a case where diagnosis evolved after treatment of the claimant's BCTS failed to alleviate her symptoms of pain and numbness in her hands. The claimant complained of upper back pain as early as November 3, 1997. The claimant received medical treatment on a consistent basis with no relief from symptoms. A cervical MRI was ordered to provide an explanation for claimant's continuing symptoms. While neck pain was not specifically complained of until April 28, 1998, the claimant's symptoms remained the same. The claimant was not required to understand the medical reasons for, or the true diagnosis of, her condition in her arms and hands.

The carrier argued that the medical evidence submitted by the claimant does not establish within reasonable medical probability that the compensable injury extends to the cervical disc damage. We disagree and do not consider the question of causation to be beyond common knowledge. See Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992. Expert medical evidence is not required to prove causation in cases where a back/neck injury is claimed as a result of repetitively traumatic activities at work. See Texas Employers' Ins. Ass'n v. Ramirez, 770 S.W.2d 896 (Tex. App.-Corpus Christi 1989, writ denied). The claimant's testimony was sufficient to establish a causal connection between her work activities and her condition.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The decision and order of the hearing officer are affirmed.

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Dorian E. Ramirez  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Joe Sebesta  
Appeals Judge