APPEAL NO. 990604

This appeal arises under the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On February 18, 1999, a contested case hearing (CCH) was held. With regard to the issues before her, the hearing officer determined that appellant's (claimant) compensable (hands and/or wrists) injury does not extend to or include headaches, neck and/or shoulder injuries.

Claimant appealed emphasizing the seriousness of the accident, claimant's own testimony reiterating testimony from the CCH, and certain medical evidence. Claimant requests that we reverse the hearing officer's decision and render a decision in her favor. Respondent (carrier) responded to the points raised by claimant and urges affirmance.

DECISION

Affirmed.

This is an extent-of-injury case. Claimant was employed as a water treatment operator and had been so employed for almost 10 years. It is undisputed that claimant sustained a compensable accident on _____, while driving a golf cart in the course of her duties. Claimant testified that she was "going at a high rate of speed" estimated to be 20 to 30 miles per hour, when the brakes of the cart failed and she crashed into a steel wall, or barrier. Claimant testified, and demonstrated, how she braced herself against the steering wheel and how the force of the collision caused her to sustain injuries to her hands (and/or wrists), neck, and shoulders. Claimant suggests that her head may have hit the windshield but does not specifically recall doing so. Claimant, both at the CCH and on appeal, emphasizes that the "axle of the golf cart was broken and the windshield cracked." Claimant testified that initially she only had pain in her hands/wrists and did not have a headache or feel pain in her neck and shoulders. Claimant testified that "about a month" later she began to have pain and discomfort in other body parts. Carrier has accepted liability for a bilateral hand/wrist injury. Claimant testified that the employer sent her to (or Tuc) (Dr. TU) who merely prescribed Vicodin and apparently released her. No records or reports from Dr. T are in evidence. It is undisputed that claimant returned to work, albeit in a light-duty capacity upon accommodation by the employer, until April or May 1998.

Claimant subsequently saw Dr. D, who, in a report dated November 25, 1997, noted "an injury to the left hand area," symptoms (pain) in the wrist area and pain in the right thumb. Dr. D did "not restrict her activities at work." There is no mention of neck or shoulder complaints. Claimant testified that Dr. D referred her to Dr. T. Exactly when claimant began seeing Dr. T is not noted, but the first report in evidence from Dr. T is dated January 8, 1998, in which claimant is released to light work, which noted initially claimant's complaints were to the left hand "but subsequently [she] had pains in the base of the right as well." Complaints of wrist pain were noted. A note dated January 29, 1998, only comments that symptoms in claimant's hands are "getting slowly better." A report of February 23, 1998, mentions right thumb and hand complaints. A Specific and Subsequent

Medical Report (TWCC-64) dated April 20, 1998, only references "pain in both thumbs." In a light-duty release of that date, Dr. T restricts claimant to "desk work only – no lifting over 2 pounds." In an Employee's Notice of Injury or Occupational Disease & Claim for Compensation (TWCC-41) dated April 30, 1998, claimant lists as body parts injured "Both hands." Claimant testified that she had gone to a field office of the Texas Workers' Compensation Commission (Commission), had been given the form and that she thought "she was supposed to only write down the injured body parts she knew of at the time of the accident and that these parts were both of her hands." Claimant had also testified that she had been having complaints to her neck and shoulders but that the doctors had failed to note those complaints in their reports. Dr. T, in a report dated May 14, 1998, noted "increasing symptoms in the right hand" with claimant complaining about "something radiating up the arm." Dr. T said claimant "appears to be developing carpal tunnel syndrome (CTS). Claimant also saw Dr. DA who claimant said was associated with Dr. T. In a report dated May 21, 1998, Dr. DA recounts the golf cart incident and states:

> Since then she has had bilateral hand and wrist pains which has been managed conservatively. However, she reports that her symptoms are not getting better, but worse. She reports that her pain is not limited to both hands and wrist any more, but she has radiation on the right up to her shoulder and neck and gets intermittent headaches.

This appears to be the first mention of any injury other than to the hands and/or wrists. Claimant was apparently sent to Dr. G as a consultant or referral doctor by carrier. In a report dated June 9, 1998, Dr. G reviewed claimant's medical history and commented that, "[s]he has some neck and shoulder discomfort, but this does not relate temporally to the symptoms within the hand." Dr. G's impression was bilateral CTS and "Bilateral basilar thumb CMC inflammation, right greater than left." Dr. G referred claimant back to Dr. T. Claimant had a CTS release on June 6, 1998.

On an Employee's Request to Change Treating Doctors (TWCC-53) dated July 2, 1998, claimant requested a change from Dr. T to Dr. W, D.C., which was approved by the Commission on July 2, 1998. (All doctors are medical doctors unless otherwise indicated.) Dr. W, in an Initial Medical Report (TWCC-61) and narrative of a July 7, 1998, visit, has an assessment that, in addition to bilateral CTS, claimant has "cervical acceleration and deceleration of the cervical spine." Treatment three times a week for six to eight weeks was prescribed. Carrier apparently referred claimant's records to Dr. P, D.C., who, in a report dated July 28, 1998, noted claimant's medical history to that date and commented:

> Review of the medical documentation does not indicate that the claimant presented any complaints of the cervical spine or shoulder radiating to the elbow prior to presentation to [Dr. W]. I see no evidence in the case to support that any injury occurred to the neck, shoulder, or elbow as a result of the mechanism of the injury as described.

* * *

> I see no evidence in the case to support that the neck, shoulder or elbow were in any way involved in the mechanism of the injury as described as occurring on _____.

In a report dated July 30, 1998, Dr. W is of the opinion claimant "suffers from Cervical Acceleration/Deceleration Syndrome or a 'whiplash' type injury." Subsequent reports of August 26, November 2, December 4, and December 15, 1998, expound on claimant's treatment. At one point, Dr. W refers claimant to Dr. G, who, in a "Subsequent Medical Report," comments:

> I think she has a mild cervical spine strain. I don't' [sic] find any evidence of a radiculopathy and I don't find a relationship specifically between the neck and the hands, i.e. I don't think the symptoms within the hand emanate from the neck. Evidently there is a question whether or not the neck is a result of the injury from back in _____. If symptoms were present soon after the injury this could certainly be related. At this time I think a specific relationship between the symptoms in the hand and the neck is absent.

Both parties cite this report as supporting their positions. Carrier emphasizes that the medical documentation does not support the proposition that "symptoms [of the neck and shoulders] were present soon after the injury."

> The hearing officer, in the discussion portion of her decision, comments:
>
> Claimant bore the burden of proving by a preponderance of the credible evidence that her compensable injury of _____ extended to and included the injuries mentioned. In this regard, the Hearing Officer notes that although the nature of Claimant's accident renders it plausible that her injury of the date in question could extend to and include her headaches, and a neck and shoulder injury, the Hearing Officer also notes that these symptoms and injuries would have been expected to manifest themselves within a short time after the injury, and to have been recorded in the medical records if Claimant did, as she testified, report these problems to her then treating doctor. However, an examination of the evidence contained in the record of the [CCH] reveals that Claimant does not appear to have reported the alleged full extent of her injuries until approximately seven and one-half months after the accident occurred, and that Claimant's offered explanation of her failure to include the alleged full extent of her injury in her TWCC 41 does not appear logical under the circumstances presented by this case.

Claimant contends that the hearing officer "failed to note the severe damage to the gold [sic] cart i.e. the broken axle and windshield." The hearing officer certainly refers to the severity of the accident and we hold that failure to mention the golf cart axle and windshield does not amount to error. Section 410.168 only requires the hearing officer to make written

findings of fact, conclusions of law, and award benefits due. The hearing officer did so and we find no error, much less reversible error, in failing to specifically mention the damaged golf cart. Claimant also recounts some of her testimony, how it was consistent with some medical evidence and her explanation of why she only listed "both hands" as the body parts injured on her TWCC-41. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). While a claimant's testimony alone may be sufficient to prove an injury, the testimony of a claimant is not conclusive but only raises a factual issue for the trier of fact. Texas Workers' Compensation Commission Appeal No. 91065, decided December 16, 1991. The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In a case such as the one before us where both parties presented evidence on the disputed issues, the hearing officer must look at all of the relevant evidence to make factual determinations and the Appeals Panel must consider all of the relevant evidence to determine whether the factual determinations of the hearing officer are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Texas Workers' Compensation Commission Appeal No. 941291, decided November 8, 1994. Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgment for hers. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994. The hearing officer heard the evidence, observed claimant, and, as the sole judge of the weight and credibility of the evidence, found claimant had failed to meet her burden of proof.

The hearing officer's decision is supported by the evidence and, accordingly, the hearing officer's decision and order are affirmed.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

_____
Gary L. Kilgore
Appeals Judge