APPEAL NO. 990740

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 February 3, 1999. He (hearing officer) determined that the appellant (claimant) did not sustain the repetitive trauma injury of bilateral carpal tunnel syndrome (BCTS) and did not have disability. The claimant appeals these determinations, contending that they are against the great weight and preponderance of the evidence. The respondent (carrier) replies that the decision is correct, supported by sufficient evidence, and should be affirmed.

DECISION

Affirmed.

The claimant worked as a biomedical equipment technician, repairing respiratory equipment and monitors. He described his job as "kind of assembly line work" and said it involved undoing numerous small screws, disassembling the equipment, replacing batteries, putting the equipment back together, testing it, and packaging and shipping it. He said he would typically work on 10 to 15 pieces of equipment a day with a large number waiting to be repaired or recertified and said his job was broken up with various tasks. He developed pain in his shoulders and upper extremities and was eventually diagnosed by Dr. V with BCTS. His last day of work was March 13, 1997. He returned to work with another employer at essentially the same wage on March 15, 1998. In a letter of July 30, 1997, Dr. V wrote that BCTS "can be related to repetitive motions in jobs that have that kind of function." His office notes for this date reflect that the claimant asked him to write a letter "saying that this is related to repetitive procedures and I do not have any problem with that." A date of injury of _____, was not disputed.

Ms. P, the claimant's manager until September 1996, testified that she was familiar with the claimant's job duties but not the "details" of his work. She said his work involved numerous things and that he never simply did unscrewing and screwing of equipment cases "for hours at a time." Ms. H, the claimant's supervisor at the time of the claimant's injury, also testified that the claimant did repair monitors and respirators and "also stood around talking a lot."

The claimant had the burden of proving he sustained a compensable injury. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). An injury includes an occupational disease, which, in turn, includes a repetitive trauma injury. A repetitive trauma injury is damage or harm to the physical structure of the body "occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." Section 401.011(36). The claimant contends that his BCTS was caused by repetitive trauma at work. The hearing officer was not persuaded by the claimant's testimony that the claimant's work was essentially repetitive in nature. Rather, he found that he performed different tasks throughout the day and was not engaged in "assembly line" type work as

stated by the claimant. In his appeal, the claimant argues that his testimony and the medical diagnosis of BCTS, together with Dr. V's statements linking BCTS with work activities, in effect, compelled a finding in this case in the claimant's favor. The claimed injury in this case could be proved by the testimony of the claimant alone, if found credible. Texas Workers' Compensation Commission Appeal No. 941077, decided September 26, 1994. The hearing officer, as sole judge of the weight and credibility of the evidence pursuant to Section 410.165(a), simply was not persuaded by the claimant that his work activities were as he described them. Similarly, the opinion of Dr. V, taken in its most favorable light as stating a causal connection in this case and not merely a statement of possible causation, was not binding on the hearing officer. Clearly, this evidence was subject to different inferences and another hearing officer may well have found otherwise. We will reverse a factual determination of a hearing officer only if that determination is 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, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility and persuasiveness of the evidence for that of the hearing officer, but find the evidence sufficient to support the determination of no occupational disease.

We also find no error in the hearing officer's determination that the claimant did not have disability, as the 1989 Act requires a finding of the existence of a compensable injury as prerequisite to a finding of disability. Section 401.011(16).

For the foregoing reasons, we affirm the decision and order of the hearing officer.

_____
Alan C. Ernst
Appeals Judge

CONCUR:

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

_____
Thomas A. Knapp
Appeals Judge