

APPEAL NO. 991156

This appeal arises pursuant to the 1989 Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On May 5, 1999, a hearing was held. He determined that the respondent (claimant) sustained a compensable repetitive physical trauma, carpal tunnel injury, to her right wrist on _____. He also determined that there has been no disability. Appellant (carrier) asserts that there was no evidence that the carpal tunnel syndrome (CTS) was related to claimant's work, with carrier adding that it is "incredible" that claimant sustained CTS from her "light industrial work." The appeals file does not contain a response by claimant.

DECISION

We affirm.

Claimant worked for (employer). In a recorded statement claimant gave on May 29, 1998, she stated that employer had assigned her to work at (site employer) from October 1997 to February 1998. At that time she filled orders. She was then off work for about two weeks when employer called her back to work and returned her to site employer but in a different type of work. She returned to site employer on _____, and worked that day (which began at night on _____ and ended early in the morning of (day after the date of injury), taking shorts from boxes and putting them on hangers, by using clips that are on the hangers. She testified at the hearing that it was hard to clamp the shorts to the hangers, referring to the thickness of the shorts at the waist. She said she used her right hand, and she began to feel pain; she also said that the pain began about half-way through the worknight. She said she asked another worker whether there were any wrist supports to put on and was told there were not.

Claimant worked the remainder of the shift and returned the next night, (day after the date of injury), but said she could not do the work and left. She sought medical care on March 4, 1998. Claimant agreed that when she began her first shift at this particular kind of work on _____, CB trained her for a few minutes concerning the shorts and the clamps. After obtaining medical care on March 4, 1998, claimant was put on light duty so she then worked in the office of employer until July 17, 1998. At that time employer asked her to get a clarification of her work restrictions, and claimant testified that she never returned.

In answer to the hearing officer's questions, claimant said she did not return on July 17th, thinking that if she did not work for a while, her hand would improve. She agreed that she could do the office work she had been doing at the time she stopped working.

A statement from CB said that claimant asked her for a "bandage" for her hand during the first 30 minutes of work on _____, when CB was showing her what needed to be done.

Contrary to the carrier's contention on appeal, there is evidence that relates claimant's CTS to her work. Claimant first saw Dr. P on March 4, 1998. His history showed a right arm and wrist strain from work. Claimant then saw Dr. Z beginning on April 6, 1998; he immediately noted that the examination was positive for CTS on the right. Dr. Z has additional progress notes in the record which show an added visit in April, May, June, and July, with an EMG consult in May and with added letters from Dr. Z in January and March 1999. The EMG showed mild right CTS. Dr. Z provided injections to claimant.

Dr. Z's letter of January 28, 1999, recited claimant's history consistently with claimant's testimony and her statement. He noted that she had numbness and tingling in her right hand "following her starting work . . . hanging shorts . . . using a clip . . . the clips were very tight and after eight and a half hours she felt pain in her wrist." Dr. Z related her history of a 1995 injury to her shoulder and said that CTS could radiate and cause pain that was felt in the shoulder. He added that he did not think the CTS was related to the 1995 accident "but rather it is related to the injury to her hand in _____." Dr. Z then said in his letter of March 17, 1999, that claimant had been called back to work after being off work for a period. He added that the one day of using clips to hang shorts "seemed to have started her symptoms." He then said that her symptoms are from the CTS "which I believe is work related." Dr. Z then went on to say that claimant's rotator cuff tear is not related to the work and was "not caused at work." He then restated that the CTS "was caused at work."

A peer review was performed for carrier by Dr. K in March 1999. Contrary to carrier's characterization of his report, Dr. K did not disagree with claimant's CTS being related to the work. He said there were two possibilities for the CTS based on the records he reviewed. The first possibility was that claimant had CTS prior to the _____ or 3rd incident but that her work "hanging the clothes" was an "aggravation of this pre-existing condition." The second possibility involved the absence of a preexisting condition, in which case, Dr. K said "the work of _____ probably resulted in an acute carpal tunnel syndrome from repetitive use." He then went on to say that such an acute case "almost always" resolves when the activity is changed. He concluded that it was "extremely unlikely" that a single day of work would cause "ongoing CTS that would be long-lasting."

At the beginning of the hearing the parties agreed to drop the part of the issue which questioned whether claimant's rotator cuff problem was sustained on _____, leaving only the question, regarding injury, of whether the CTS was caused by work that day.

The hearing officer is the sole judge of the weight and credibility of the evidence. See Section 410.165. He could interpret Dr. K's statement as indicating that one day of work could cause CTS and thereby that Dr. K's statement lent support to the opinion of Dr. Z that the CTS was caused by claimant's work on _____. Since the hearing officer found no disability, and that determination was not appealed and the other question of causation—the shoulder condition—was dropped at the beginning of the hearing, that is the only issue under consideration on appeal. Claimant's testimony and her statement along with the medical opinions of Dr. Z and Dr. K sufficiently support the determination that claimant sustained a compensable right CTS injury on _____.

Finding that the decision and order are sufficiently supported by the evidence, we affirm. See In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Joe Sebesta
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Judy L. Stephens
Appeals Judge