APPEAL NO. 991548

This appeal arises pursuant to the 1989 Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On June 23, 1999, a hearing was held. He (hearing officer) determined that appellant (claimant) did not sustain a compensable injury in the form of an occupational disease (repetitive physical trauma) on _____, and that there was no disability. Claimant asserts that the decision is against the great weight and preponderance of the evidence, citing her repetitive work and the medical opinion of Dr. B and Dr. M. Claimant argues that, since a compensable injury should be found, she also has disability. Respondent (carrier) replied that the decision should be affirmed.

DECISION

We affirm.

Claimant worked part time for (employer) while she also attended college. She testified that she worked about 23 hours a week driving, delivering, sorting, and entering information relative to various letters and packages. She also said she handled about 200 such items a day. She began this job in September 1997, at the same time she began college. She testified to taking about six to nine hours a semester but could not remember what classes she had in the fall of 1998 and why she dropped some classes. She did say that some, but not all, of her college courses required that she take notes. She did use a computer that was not related to her work.

She testified that her hands started feeling numb in the middle part of July 1998 and that she found out she had carpal tunnel syndrome (CTS) in August 1998 and reported the injury in _____. There was no notice issue in this case.

Dr. B noted on August 5, 1998, that claimant saw him for pain in both hands; he referred to the hands going "to sleep," adding that claimant "works driving trucks." He assessed CTS but said, "at this point we cannot relate it to her work." On September 9, 1998, Dr. B said that claimant had first seen him on August 5, 1998, complaining of her hand pain; Dr. M said, "at that time we could not relate it to work." His September 9, 1998, entry went on to say that claimant was seen again on August 28, 1998, "and at that time she did not identify this again as being workman's comp." Then Dr. B stated that claimant "comes in today on 9-9-98, at which time she is identify [sic] it as workman's comp."

Dr. M performed an EMG on September 23, 1998, which he reported as abnormal stating that claimant had CTS, bilateral, "chronic and severe"; radial tunnel syndrome (RTS), bilateral, "chronic and moderate to severe"; and cubital tunnel syndrome (CuTS), bilateral, "chronic and moderately severe." He did not give an opinion as to causation.

Dr. B said on March 8, 1999, in a letter:

> [Claimant] is well-known to me. On her last visit, on January 28, 1999, she was suffering from [CTS], [RTS], and [CuTS]. Patient at that time, was referred to an orthopedic specialist. Until this is taken care of, I do not feel the patient is able to lift anything over 10 pounds and would consider her to be severely disabled until the orthopedist intervenes. I have not seen the patient back since that time. I am hoping that she has seen the orthopedist and is getting her problems taken care of.

Thereafter, on March 25, 1999, Dr. B said in another letter:

> [Claimant] is well-known to me. On her last visit, on January 28, 1999, she was suffering from [CTS], [RTS], and [CuTS]. Patient at that time, was referred to an orthopedic specialist. Until this is taken care of, I do not feel the patient is able to lift anything over 10 pounds and would consider her to be severely disabled until the orthopedist intervenes. I have not seen the patient back since that time. I am hoping that she has seen the orthopedist and is getting her problems taken care of. In my opinion, her injuries are related to work and her job description is repetitive.

Mr. H is an operations manager for employer. He testified to the work claimant and others are required to do, stating that a scanner is used to read labels and adding that some strokes are made to keys on the scanner to input information.

The hearing officer is the sole judge of the weight and credibility of the evidence. *See* Section 410.165. He commented in his Statement of Evidence that claimant handled an average of 150 to 200 packages a day including letters. He calculated her entries in the keyboard/scanner and concluded that her total entries did not consume a large part of her part-time work. He added that her work was varied and "not obviously repetitious." He did not comment about the medical evidence, although he made one finding of fact, which said that claimant's bilateral RTS, CTS, and CuTS "were not caused by repetitive trauma at work," that indicates he accepted the EMG results of Dr. M as showing abnormal conditions.

The hearing officer may accept some medical evidence and reject other medical evidence. *See* Texas Workers' Compensation Commission Appeal No. 970834, decided June 23, 1997. He certainly may reject a medical opinion, such as Dr. M's, as to causation, when Dr. M had earlier said that claimant's condition could not be related to her work and there are no records of Dr. M, or any other records in evidence, that show Dr. M subsequently considered added evidence indicating a connection to the work. While a fact finder may consider a conclusory medical opinion, such as that of Dr. B, provided in the last sentence of his March 25, 1999, letter (but not in the same letter of March 8, 1999), the hearing officer is not obligated to give such opinion any weight. *See* Appeal No. 970834.

Similarly, the hearing officer may accept part of claimant's testimony but may reject part of it. He may believe that claimant has several abnormalities in regard to her upper

extremities but not believe that any were caused by the work. *See* Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ).

The Appeals Panel will not overturn a hearing officer on a factual determination unless it is against the great weight and preponderance of the evidence. In reaching his decision, the hearing officer is obligated to consider all the admissible evidence, which includes the description of the job claimant asserted was causing her arm conditions. In this case, the determination that claimant's conditions were not caused by the claimant's work is not against the great weight and preponderance of the evidence.

With an affirmed determination that there was no compensable injury, there can be no disability. *See* Section 401.011(16).

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:

_____
Gary L. Kilgore
Appeals Judge

_____
Dorian E. Ramirez
Appeals Judge