APPEAL NO. 991572

This appeal is brought pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 30, 1999. The appellant (carrier) and the respondent (claimant) stipulated that the claimant sustained a compensable injury on _____. The hearing officer determined that the claimant has reflex sympathetic dystrophy (RSD) in the fourth and fifth digits of the left hand and that the compensable injury includes RSD of the left upper extremity. The carrier appealed, urged that the decision of the hearing officer is against the great weight of the evidence, and requested that the Appeals Panel reverse the decision of the hearing officer and render a decision that the compensable injury does not include RSD. The claimant responded, urged that the evidence is sufficient to support the decision of the hearing officer, and requested that it be affirmed.

DECISION

We affirm.

The Decision and Order of the hearing officer contains a detailed statement of the medical evidence. Briefly, the claimant is 65 years old and in August 1997 injured his neck and left upper extremity when he was sleeping in a bunk in a truck when it went off the road and he was bounced around. The claimant contended that he developed RSD as the result of the compensable injury. The carrier contended that some of the claimant's testimony was not credible and that he does not have RSD. The hearing officer summarized the reports of six doctors, including the designated doctor and a neurosurgeon, who opined that the claimant had RSD or features suggestive of RSD. Some of those doctors stated that the claimant's RSD was the result of his compensable injury. One doctor reviewed medical records and reported that the records were insufficient to label the claimant as having RSD and that it was extremely unlikely that the claimant had RSD as a result of the compensable injury. Another doctor, who, at the request of the carrier, examined the claimant and reviewed some of the medical records, completed a report and testified at the hearing. It appears that the carrier may have been selective in the medical records that it sent to her. She testified that based on the records, her examination, and videos that showed the claimant using his left hand, she did not observe anything consistent with RSD.

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). 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 issue, 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. An appeals level body is not a fact finder, and it does not normally pass upon the credibility of witnesses or substitute its own judgement for that of the trier of fact even if the evidence could support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). The carrier complained that the hearing officer did not specifically mention the videos of the claimant using his left hand. In her Decision and Order, the hearing officer listed the videos as an exhibit, commented on the testimony of the doctor who in part based her opinion on her review of the videos, and stated that all of the evidence was considered even if it was not discussed. While it may have been advisable for the hearing officer to have commented on the videos, it was not reversible error for her not to do so. The hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. 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 judgement for hers. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994.

We affirm the decision and order of the hearing officer.

_____
Tommy W. Lueders
Appeals Judge

CONCUR:

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

_____
Philip F. O'Neill
Appeals Judge