

APPEAL NO. 991781

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 22, 1999. The issues at the CCH were whether the appellant's (claimant) compensable injury of injury 1, extended to right tenosynovitis, right lateral epicondylitis, edema of the right forearm/wrist, and right shoulder impingement, and whether the claimant had disability from December 18, 1998, to the present from her injury 1, injury. The hearing officer determined that the compensable injury of Injury 2, does not extend to include right tenosynovitis, right lateral epicondylitis, and right shoulder impingement, but does extend to include edema of the right forearm/wrist. The hearing officer also determined that the only period of disability after December 18, 1998, was from March 16, 1999, through April 16, 1999. In a global appeal, the claimant asserts error "in each and every finding of fact and conclusion of law rendered against claimant" The respondent (self-insured) urges that there is sufficient evidence to support the findings and conclusions of the hearing officer and asks that the decision be affirmed.

DECISION

Affirmed.

The Decision and Order of the hearing officer sets forth the evidence in this case fairly and adequately and it will only be briefly outlined here. The self-insured ultimately accepted a compensable injury consisting of a ganglion cyst on injury 1, resulting from the claimant's complaints that a "bump" on her hand was caused by her repetitive work on garments. Her report of injury states a repetitive motion trauma injury to her right wrist. She saw Dr. B on October 9th with complaints of pain in her right wrist. Dr. B diagnosed a ganglion cyst, restriction of motion, muscle spasms, and edema to the right forearm and wrist, and notes a prior (1996) carpal tunnel syndrome injury for which the claimant states she had surgery. In any event, the claimant was taken off work and released to light duty on November 18, 1998. She returned to work and was placed on light duty, but after two days stopped because the work was not within her restrictions. Although she indicated she did not work after that, the human resources supervisor testified that the claimant worked three days in December and was taken off work on December 17, 1998. This supervisor also testified that the claimant only complained of her right wrist hurting and suggested it might be from her old injury. Apparently, as a result of her complaints about the work after she returned, Dr. B again placed her in an off-work status.

In January, Dr. A saw the claimant and gave a clinical impression of wrist tendinitis with ganglion; impingement syndrome, right shoulder. He recommended that the claimant have a ganglionectomy, which she did on March 16, 1999. Dr. B states in a letter of June 28, 1999, that following the ganglionectomy, the claimant continued with pain in the right elbow and shoulder. There are two letters from a Dr. S in evidence which stated that the claimant, despite prior confirmation, twice failed to show for a required medical examination (January 20, 1999, and February 23, 1999). The self-insured also introduced a video from

late December 1998 and early January 1999 showing the claimant in various activities using her right hand without apparent difficulty.

The hearing officer found the injury extended to the edema, but not to right tenosynovitis, right lateral epicondylitis, and right shoulder impingement. She also found that the claimant had disability (after December 18, 1998) for the period of March 16, 1999, through April 16, 1999, when the claimant had surgery and underwent recovery. The hearing officer indicated that there were many inconsistencies in the claimant's testimony about her ability to work and when she did work, and that the records do not indicate (although she testified she did complain earlier) that she complained of shoulder or elbow pain or injury to her employer or doctor until 1999. Noting that the claimant had the burden of proof, the hearing officer stated that, based on the credible testimony and the medical evidence before her, the claimant failed to establish a causal relationship between the September 14th ganglion cyst and edema injury and the diagnoses of right tenosynovitis, right lateral epicondylitis and right shoulder impingement. While different inferences may be possible from the evidence, this is not a sound basis to reverse the factual determinations of the hearing officer. Texas Workers' Compensation Commission Appeal No. 94466, decided May 25, 1994. Resolving conflicts and inconsistencies in the evidence and testimony, including medical evidence, is a matter for the hearing officer. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Only were we to conclude, which we do not from our review of the evidence, that the determinations of the hearing officer were so against the great weight and preponderance of the evidence as to be clearly wrong or unjust would there be a sound reason to set aside her findings and reverse the decision. Employers Casualty Company v. Hutchinson, 814 S.W.2d 539 (Tex. App.-Austin 1991, no writ). Accordingly, the decision and order are affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Elaine M. Chaney
Appeals Judge