

## APPEAL NO. 991841

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 August 4, 1999. The issues at the CCH were whether the appellant's (claimant) compensable injury extended to the cervical area, right shoulder and arm, and right carpal tunnel syndrome (CTS); whether the \_\_\_\_\_, compensable injury is a producing cause of the claimant's current left arm and shoulder condition after (alleged date of injury); whether the claimant timely filed a claim for compensation; and whether the claimant had disability. The hearing officer determined that the compensable injury sustained by the claimant did not extend to the cervical area, right shoulder and arm, and right CTS; that the \_\_\_\_\_, compensable injury was not a producing cause of the claimant's left shoulder and arm condition after (alleged date of injury); that although the claimant did not timely file a claim, the respondent (carrier) did not contest the claim and was thus not relieved of liability; and that the claimant had disability from the injury sustained on \_\_\_\_\_, from July 31, 1997, through August 3, 1997. Claimant appeals several findings of fact and conclusions of law that hold the compensable injury does not extend to an injury to the cervical area, right shoulder and arm, and right CTS; that the \_\_\_\_\_, compensable injury is not a producing cause of the left shoulder and arm condition after (alleged date of injury); and that she only had disability from July 31, 1997, through August 3, 1997. The carrier responds 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 fairly and adequately the evidence in this case and it will only be summarized here. It was not disputed that the claimant sustained a shoulder sprain injury on \_\_\_\_\_, when she pulled a bicycle from a rack at her place of employment. She was taken to an emergency room, treated for a shoulder sprain, and released to work the next day with some restrictions for four days. The claimant returned to work and continued to work her regular duties for the employer for the next 14 months until September 21, 1998. She indicated that she had some pain during that period. According to medical records and claimant's testimony she did not seek medical treatment between the time she went to the emergency room and March 20, 1998, when she went to Dr. R with complaints of neck, shoulder, chest, and rib pain for three months, and the next visit to her doctor was on September 25, 1998. Claimant stated that because of her pain she stopped work on September 21, 1998, and she relates her cervical and right shoulder and arm pain to the incident of \_\_\_\_\_, and her current left arm and shoulder condition to the same incident. The claimant specifically denied that the CTS was related to her work.

Medical records indicate that the claimant fell on (alleged date of injury), and a note from Dr. R dated April 16, 1999, states that, according to the claimant, the fall resulted from her legs giving out from weakness due to the original injury. Dr. R generally opines that her

current condition relates to the injury of \_\_\_\_\_, and her work. Other medical records show evidence of C5-7 radiculopathy bilaterally, left CTS, mild compromise of the sensory branch of the right median nerve in the carpal tunnel, and no neuropathy or entrapment of both ulnar nerves. Two coworkers were called by the carrier and testified generally that, prior to when the claimant quit work in September 1998, she only complained of migraine headaches and specifically stated they were not work related.

On the matters on appeal, the hearing officer found the claimant's injuries did not extend beyond the strain/sprain occurring on \_\_\_\_\_, that that injury was not the cause of her current left shoulder and arm complaints, and that disability from the compensable injury ended on August 3, 1997. He states he did not find the claimant's testimony persuasive, rather that it was somewhat inconsistent, in establishing the extent of injury claimed or the causal relationship between her current left shoulder and arm condition and the incident of \_\_\_\_\_. In arriving at his determinations, he also noted the return to work right after the incident, the absence of any medical treatment from July 1997 to March 1998 and then in September 1998, and the intervening fall in March 1998 which did not appear to bear any relationship to the compensable injury. The claimant discounted any CTS work-related injury in her testimony. As the sole judge of the relevance and materiality of the evidence and the weight and credibility to be given the evidence (Section 410.165(a)), the hearing officer could believe all, part, or none of the testimony of any witness, including the claimant, and resolve conflicts and inconsistencies in the evidence. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, no writ); Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). From our review of the evidence of record, we cannot conclude 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. Employers Casualty Company v. Hutchinson, 814 S.W.2d 539 (Tex. App.-Austin 1991, no writ); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992. Accordingly the decision and order are affirmed.

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Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

\_\_\_\_\_  
Thomas A. Knapp  
Appeals Judge

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Dorian E. Ramirez  
Appeals Judge