

APPEAL NO. 991957

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On August 16, 1999, a hearing was held. He determined that appellant (claimant) did not sustain an occupational disease on \_\_\_\_\_, and had no disability. Claimant asserts that her carpal tunnel problem was caused by repetitive physical trauma at work and says she could not work because of carpal tunnel pain and not due to a car wreck in February 1998. Respondent (carrier) replied that the decision should be affirmed.

DECISION

We affirm.

Claimant worked for (employer) since March 1996. She testified that she is a customer service representative and that her work entailed using a telephone and computer all day long; she obtained information and entered it into the computer. She wore a headset in doing this. Claimant agreed that she was in a car wreck in April 1997 and did not work from April 25, 1997, until some undefined date in October 1997. She testified that thereafter her last day of work was on November 25, 1997. The date of injury set forth in this case is \_\_\_\_\_. Claimant also testified that she was hospitalized in "October '97" for gastroparesis, at which time she had an IV in her left arm which infiltrated and caused swelling and phlebitis, resulting in pain in her left arm with numbness; claimant said that when she returned to work in October 1997 she was no longer having pain in her arm, just "discomfort." Claimant also agreed that she was hospitalized on November 11, 1997, for gastrointestinal problems. From this overview it is clear that claimant worked only approximately one of the prior seven months immediately preceding the date of injury.

On \_\_\_\_\_, the date of injury, claimant was seen by Dr. D who noted "forearm pain--since 3 weeks [illegible] IV placed there when hospitalized. Not related to motion." On October 24, 1997, when claimant appears to have first seen Dr. D, a history form, which included approximately 100 various diseases or body parts, was checked in several places, but was not checked by "arms," which was listed under a heading of "pain weakness, numbness," while her neck was so checked (claimant's car wreck in April 1997 preceded surgery to her cervical spine). There was no indication that claimant had any arm, wrist, or hand problem from her work from March 1996 to the time of her car wreck in April 1997, at which time she ceased work until some time in October 1997.

In the December 1997 and January 1998 time frame, there is no indication in medical records that claimant had any trouble with her right hand, wrist, or arm. In a statement claimant gave on January 9, 1998, she only referred to having a problem with the left hand/wrist/arm.

Dr. M, a neurosurgeon who operated on claimant's neck for herniated discs at C4-5 and C5-6 on August 4, 1997, had noted in June 1997 that claimant's left arm was numb

and that she had problems dropping things. After the surgery he noted, however, on August 25, 1997, that her numbness had resolved. Thereafter, on December 22, 1997, Dr. M noted that claimant had been hospitalized in October and that an IV site in her left arm had become swollen; he added that since then claimant complained of numbness. Then, on January 6, 1998, Dr. M wrote that he was "concerned that the swelling of the hand could have caused reduction in wrist compartment volume and secondarily compression of the median nerve." He ordered a splint to wear on the left wrist. On January 9, 1998 (the same date that claimant gave her statement referred to in the preceding paragraph), Dr. M wrote that work "could exacerbate" her condition, adding, "I told her that I did not feel this was work related at the time that she discussed this with me." On January 13, 1998, Dr. M said that claimant said her hand pain/numbness began about two weeks after hospitalization; he added that typing exacerbates it and then wrote, "CTS [carpal tunnel syndrome] may be work related."

The references in the prior paragraph to CTS and numbness were all in regard to the left upper extremity. On February 10, 1998, Dr. M wrote that claimant had been in another car wreck on "Friday" (a 1998 calendar shows that the Friday preceding February 10, 1998, was February 6, 1998). During the February 10th appointment, Dr. M also noted that claimant had tingling and numbness in her right arm. Thereafter, on February 23, 1998, Dr. M noted that an EMG was performed on February 17, 1998, which found "bilateral delays of the carpal tunnels"; at this appointment, at which the "bilateral delays" were mentioned, Dr. M nevertheless said that it was in claimant's best interest to return to work. At the end of March 1998, Dr. M noted that claimant had not returned to work "since November 1997," although he had recommended that she work. He then referred to her gastroparesis hospitalization as occurring in November 1997 saying "she had a secondary IV phlebitis of the left ulnar aspect of her forearm with associated hand swelling. Left hand numbness . . . began at that point." Dr. M again said that claimant should return to work.

Claimant had bilateral CTS surgery on January 6, 1999, after a December 30, 1998, medical note by her surgeon, Dr. T. Dr. T commented that the etiology of the CTS was "uncertain." Dr. M, on April 30, 1999, then wrote a letter that said in its entirety:

I talked with [claimant]. I told her that I did feel that her [CTS] was work-related. As I discussed with her, there are other coexisting medical conditions as well.

The carrier offered a report of Dr. L, who examined some of claimant's records for carrier. She listed 13 causes of CTS, including diabetes (which the records show that claimant has), saying also that claimant's diabetes has been "poorly controlled." She noted the IV problem and "significant swelling" of the left hand and wrist in saying that these facts, along with the diabetes, constituted the "most likely etiology." She concluded by saying that, in her opinion, "this is not work related."

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's left hand problems developed after the IV-phlebitis problem in October 1997 after claimant had

not worked since April 1997. He then noted that the right hand problem began in February 1998 after claimant's 1998 car wreck when claimant had not worked since November. He concluded therein that it was "more likely" that the CTS was related to "non-work accidents and ordinary diseases of life." The hearing officer's findings of fact were consistent with these observations and stated that claimant's CTS was not caused by repetitive trauma at work. The medical records, including the totality of Dr. M's comments and Dr. D's \_\_\_\_\_, note, along with the opinion of Dr. L, and claimant's testimony, sufficiently support the determination that claimant did not sustain an occupational disease.

With 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).

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Joe Sebesta  
Appeals Judge

CONCUR:

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Tommy W. Lueders  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge