

APPEAL NO. 000280

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 11, 2000. The hearing officer determined that the respondent (claimant) sustained a ganglion cyst which naturally flowed from the _____, compensable wrist laceration injury. Appellant (carrier) appealed on sufficiency grounds. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant's ganglion cyst is a result of the _____, laceration injury. Carrier asserts that the evidence from Dr. S and Dr. M shows that the ganglion cyst is not related to the compensable wrist laceration injury. Carrier contends that the evidence from Dr. R was not credible because he is a plastic surgeon and because he had an interest in obtaining payment for the surgery he performed.

The hearing officer's decision sets forth fairly and adequately the evidence in this case and it will only be outlined here. Briefly, claimant said he sustained a laceration to his wrist when he cut himself with a putty knife. He said the doctor sutured the wound and sent him back to work. Claimant testified that the first time a lump in his wrist was noticed was when the doctor removed his stitches about three weeks later. Claimant said Dr. R later surgically removed a ganglion cyst from his wrist. Claimant said the laceration was at the bottom of his thumb where the wrist flexes and the cyst was at the "top" of his wrist.

The April 4, 1999, operative report from Dr. R stated that the diagnosis was "traumatic infiltrating cystic mass." In an August 1999 report, Dr. R stated that claimant presented with a "very large dorsal mass of the left hand with quite a bit of adhesions and ligament weakness with tendon entrapment." He said this mass "extended really from one side of the hand to the other." Dr. R stated that the cyst was caused by the crushing-type laceration claimant sustained on _____.

Under the 1989 Act, the claimant has the burden of proving that he sustained a compensable injury and the extent of the injury. Texas Workers' Compensation Commission Appeal No. 950537, decided May 24, 1995. The 1989 Act defines injury, in pertinent part, as "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." Existence and extent of injury are fact questions for the hearing officer. Texas Workers' Compensation Commission Appeal No. 951959, decided January 3, 1996. The hearing officer is the sole judge of the weight and credibility to be given to the evidence and the relevance and materiality to assign to the evidence. Section 410.165(a). As the fact finder, the hearing officer is charged with the

responsibility to resolve the conflicts in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). We will not substitute our judgment for the hearing officer's where her determinations are supported by sufficient evidence. Cain.

In this case, the hearing officer weighed the evidence and determined that claimant's ganglion cyst was caused by the _____, injury. This issue involved a fact question for the hearing officer, which she resolved. Appeal No. 951959, *supra*. The hearing officer could decide to believe all, none, or any part of the evidence and she decided what weight to give to the evidence in this case. Campos, *supra*. There was medical evidence from Dr. R to support the hearing officer's determination. The fact that there was also contrary medical evidence of causation from Dr. S and Dr. M was for the hearing officer to consider in resolving the fact issues in the case. The hearing officer considered carrier's assertions and decided what evidence she found credible in this case. After reviewing the evidence, we conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be wrong or manifestly unjust. Cain, *supra*.

Regarding carrier's contention that this matter should have been handled by the Medical Review Division of the Texas Workers' Compensation Commission, we disagree. Whether claimant's injury extended to the ganglion cyst was a proper matter for the Hearings Division. We perceive no error.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Elaine M. Chaney
Appeals Judge