

APPEAL NO. 000392

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 January 27, 2000. The hearing officer determined that the compensable injury of \_\_\_\_\_, does not extend to include the atrial fibrillation of the appellant (claimant). The hearing officer also determined that the claimant did not sustain additional disability from April 2, 1999, to July 2, 1999, as was contended by claimant, due to the compensable injury. Claimant appeals these determinations on sufficiency grounds. Respondent (carrier) responds that there was no error in the hearing officer's determinations.

DECISION

We affirm.

The hearing officer's decision sets forth fairly and adequately the evidence in this case and it will only be outlined here. Claimant testified that on \_\_\_\_\_, a resident of the halfway house where she worked hit and kicked her, causing soreness and a laceration. Claimant said she went to the emergency room (ER), that someone listened to her heart there, and that heart arrhythmia was not mentioned. Claimant testified that she was sore the next day and felt weak. She testified that she later saw Dr. B and Dr. M for heart palpitations. Claimant said she underwent a cardioversion procedure that helped her atrial fibrillation. Claimant testified that she had been taking medications at the time of the injury for high blood pressure. Claimant said she has not returned to work at the halfway house, but she has worked part time at a health care company and has done some volunteer work. She said she has not returned to work at the halfway house because "that boy is still there." Claimant testified that her doctor told her to avoid stressful situations.

A \_\_\_\_\_, ER record indicates that claimant's prehospital treatment included the medications "digoxin, lescol, estrace, and betpace." The physician's notes did not mention any arrhythmia. In an April 30, 1999, report, Dr. M stated that: (1) claimant had a prior history of atrial fibrillation of unknown etiology; (2) claimant had a history of moderate mitral valve prolapse and mitral regurgitation; (3) she had been free of palpitations until the \_\_\_\_\_, incident; and (4) the "impression" was "recurrence of atrial fibrillation, symptoms beginning after an assault at work."

Dr. E testified at the CCH that: (1) he reviewed claimant's records; (2) atrial fibrillation is a type of arrhythmia; (3) atrial fibrillation can be idiopathic; (4) the risk factors include high blood pressure with an enlarged heart, valve disease, and coronary artery disease; (5) claimant had mitral regurgitation or valve leaks; (6) atrial fibrillation can occur spontaneously; (7) claimant has heart disease; (8) records do not show that claimant told ER personnel about atrial fibrillation symptoms; (9) claimant was taking medications for arrhythmia; and (10) there is no evidence to sustain an opinion that the atrial fibrillation was caused by the \_\_\_\_\_, incident.

Under the 1989 Act, the claimant has the burden of proving that her atrial fibrillation is the result of her \_\_\_\_\_, compensable injury. Texas Workers' Compensation Commission Appeal No. 950537, decided May 24, 1995. The 1989 Act defines "injury" as damage or harm to the physical structure of the body and a disease naturally resulting from the damage or harm. Section 401.011(26). The definition of "injury" includes occupational diseases. An occupational disease is defined as "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body," but does not include "an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). To establish that he has an occupational disease, the claimant's evidence must show a causal connection between the employment and the disease. Texas Workers' Compensation Commission Appeal No. 91002, decided August 7, 1991. Whether the necessary causation exists is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 94266, decided April 19, 1994.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there is conflict in the evidence, the hearing officer resolves the conflicts and determines what facts have been established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Regarding causation, the evidence conflicted. There was medical evidence to support claimant's theory of causation as well as medical evidence supporting carrier's assertions at the CCH. The evidence raised an issue of fact regarding causation of the atrial fibrillation. The hearing officer considered the evidence and resolved this issue regarding extent of injury in carrier's favor. Escamilla v. Liberty Mutual Insurance Co., 499 S.W.2d 758 (Tex. Civ. App.-Amarillo 1973, no writ). The hearing officer weighed the evidence and determined that claimant did not meet her burden of proof regarding causation in this case. Texas Workers' Compensation Commission Appeal No. 960569, decided April 22, 1996. The hearing officer was the sole judge of the medical evidence. After reviewing the medical reports and the other evidence in this case, we conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra; Texas Workers' Compensation Commission Appeal No. 931053, decided December 28, 1993.

Claimant next contends that the hearing officer erred in determining that she did not have disability. The evidence indicates that claimant's compensable injury involved a facial laceration and a contusion to her left hip. Claimant did not claim that she had disability from the laceration and contusion. At the CCH, claimant contended that she lost time from work due to the atrial fibrillation. An off-work slip from Dr. B states that claimant is under

his care for “heart problems.” Because the hearing officer found the compensable injury did not include atrial fibrillation, we affirm the disability determination.

We affirm the hearing officer’s decision and order.

Judy L. Stephens  
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.  
Chief Appeals Judge

Thomas A. Knapp  
Appeals Judge