APPEAL NO. 000540

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 31, 2000. The hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury of _____, and had disability beginning on September 22, 1999, and continuing through the date of the CCH. The appellant (carrier) appealed, urged that the great weight and preponderance of the evidence is against the decision of the hearing officer, and requested that the Appeals Panel reverse it and render a decision that the claimant did not sustain a compensable injury and did not have disability. The appeal file does not contain a response from the claimant.

DECISION

We affirm.

The Decision and Order of the hearing officer contains a statement of the evidence. Only a brief summary of the evidence will be contained in this decision. It is undisputed that the claimant has carpal tunnel syndrome (CTS) on the right. She had surgery to correct a separated right shoulder and testified that she had no problems with the right shoulder after she healed from having the surgery. She also has hereditary angioedema that causes swelling and she testified that the swelling rarely lasts more than 72 hours. The claimant began working for a temporary service on August 24, 1999, and was assigned to an employer that sold cardboard products. She used her hands to remove excess cardboard that had been cut from pieces that would be used to make boxes and to remove cardboard from pieces that were to be used in packing, such as a piece of cardboard that would be placed around an object to be placed in a cardboard box. The claimant testified that on _____, she felt pain in her right shoulder shooting down into her arm and that by _____, the pain was so bad that she could no longer perform her job. She stated that she was taken to a doctor by the employer, referred to an orthopedic surgeon and a neurosurgeon, diagnosed with CTS, placed on light duty, and was assigned light duty in the employer=s office until September 17, 1999. Dr. F, an orthopedic surgeon, reported that nerve conduction studies showed that the claimant had moderately severe right CTS, that she had worked for only two or three weeks tearing cardboard, that she never had the problem before, that it appeared to be work related, that conservative treatment was not successful, and that he recommended surgery. Dr. B, who treated the claimant=s hereditary angioedemaBC1 esterase inhibitor deficiency syndrome, stated that equivocally her CTS is not related to her hereditary angioedema. Dr. W reviewed the claimant=s medical records and responded to questions asked by the carrier. He stated that the repetitive activity of using the wrist and hands would have to take place for many months or perhaps years before causing CTS; that the claimant had preexisting CTS and two weeks of work would not have caused the moderately, severe changes seen on the electrodiagnostic study; that the claimant has hereditary angioedema that can cause episodes of swelling; and that swelling of tissues in the carpal tunnel can cause CTS.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of any witness=s testimony because the finder of fact judges the credibility of each and every witness, the weight to assign to each witness=s testimony, and resolves conflicts and inconsistencies in the testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref=d n.r.e.); Texas Workers= Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Whether CTS is a continuation of a preexisting condition or a new injury or aggravation of a preexisting condition is a factual determination for a hearing officer to make. Texas Workers= Compensation Commission Appeal No. 950600, decided May 31, 1995. The hearing officer=s statement of the evidence indicates that she considered all of the evidence. Her determinations that the claimant sustained a compensable injury and had disability are not so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King=s Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgment for hers. Texas Workers= Compensation Commission Appeal No. 94044, decided February 17, 1994.

We affirm the decision and order of the hearing officer.

Tommy W. Lueders
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Gary L. Kilgore
Appeals Judge