

APPEAL NO. 000680

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 March 14, 2000. The hearing officer determined that the respondent-s (claimant) left shoulder injury does extend to include the cervical spine, left wrist carpal tunnel syndrome (CTS), and a chest wall muscular injury. The appellant (carrier) appeals, urging that the evidence is insufficient to support the hearing officer-s decision. The appeals file contains no response from the claimant.

DECISION

Affirmed.

The claimant sustained a compensable injury to his left shoulder on _____, when he strained to lift a wooden pallet on top of a stack of pallets approximately five feet high and fell to the ground. The claimant was treated at the emergency room (ER) on _____, and sought follow-up treatment with Dr. S. According to the claimant, he complained to Dr. S that his neck, shoulder, chest and arm were injured, but Dr. S concentrated on treating his left shoulder. The claimant had two left shoulder surgeries performed by Dr. S. The claimant argues that he injured his cervical spine, chest wall, and sustained left CTS, in addition to his left shoulder injury on _____.

The ER records reflect that the claimant was diagnosed with a chest wall muscle strain on _____. Dr. S-s medical records indicate that on November 21, 1997, the claimant complained of soreness in his upper left chest wall, and on November 25, 1997, he complained of left hand numbness and neck pain. A cervical MRI performed on December 10, 1997, revealed a small disc bulge at C5-6 without nerve root impingement. The medical records of Dr. S indicate that the claimant had continued complaints of numbness and tingling in his left hand and was diagnosed with CTS on April 29, 1998. The designated doctor, Dr. H, was asked by the benefit review officer if the claimant-s neck problems were a result of the compensable injury of _____, and he replied "I do believe that his neck problems are the result of the compensable injury of _____, and I think everything that he has is work related."

The claimant had the burden to prove the extent of his compensable injury. 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." It has been held that the immediate effects of an injury are not solely determinative of the nature and extent of that injury and that the "full consequences of the original injury . . . upon the general health and body of the workman are to be considered." Texas Employers' Insurance Association v. Thorn, 611 S.W.2d 140 (Tex. Civ. App.-Waco 1980, no writ), quoted in Texas Workers' Compensation Commission Appeal No. 94232, decided April 11, 1994. The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer,

as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. 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).

The hearing officer found the evidence sufficient to prove that the claimant sustained an injury to his cervical spine, left wrist CTS, and a chest wall injury, as a result of the incident on _____. The claimant's testimony raised a fact issue and the hearing officer was entitled to and did believe claimant's testimony over the other evidence. Escamilla v. Liberty Mutual Insurance Co., 499 S.W.2d 758 (Tex. Civ. App.-Amarillo 1973, no writ). We do not believe that the claimant was required to prove, by a reasonable degree of medical probability, a causal connection between the incident on _____, and the claimant's alleged injuries; however, the claimant did present expert medical evidence from Dr. H which supports his position. The medical evidence indicates that the claimant was diagnosed with a chest wall injury on _____, and had neck and left wrist complaints seven months after the date of injury, although a diagnosis was not given at that time. When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we find the evidence sufficient to support the hearing officer's determination that the claimant's _____, left shoulder injury does extend to include the cervical spine, the left wrist CTS, and a chest wall muscular injury.

The decision and order of the hearing officer are affirmed.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Elaine M. Chaney

Appeals Judge