

APPEAL NOS. 000668,
000688 AND 000701

On February 14, 2000, a consolidated contested case hearing (CCH) were held. The CCH was held under the provisions of the Texas Workers= Compensation Act, TEX. LAB. CODE ANN. ' 401.001 *et seq.* (1989 Act). The hearing officer resolved the disputed issues by deciding that appellant (claimant) did not sustain a compensable injury on _____, or on _____; that claimant has not had disability; and that claimant is not barred from pursuing Texas workers= compensation benefits under an election of remedies. Claimant appeals the hearing officer=s decisions on the injury and disability issues. Respondent (carrier) requests affirmance.

DECISION

Affirmed.

Claimant testified that she sustained a work-related injury in 1990, that she sustained a work-related injury in _____, that she was hired by employer in 1997, that she sustained three work-related injuries in _____, that she was off work for her _____ injuries from November 1998 to April 1999, and that she returned to work in April 1999. Medical reports for her prior injuries were in evidence. Claimant testified that she sustained a work-related injury to her right wrist on _____, from repetitious use of a rivet gun; that she sustained a work-related injury to her left wrist on _____, from repetitious pulling of frames from a bin; and that she sustained a work-related neck injury on _____, from repetitious placing of completed frames on overhead shelves. Claimant testified as to the number of times a day she did each work-related activity involved in her claimed 1999 injuries. Claimant went to Dr. O, in June 1999 for her claimed 1999 injuries and was also examined by other doctors. Dr. O took claimant off work and had diagnostic testing performed. Dr. O opined that claimant sustained a work-related right wrist and right upper extremity injury on _____, and that she sustained work-related left wrist, left upper extremity, and neck injuries on _____. Dr. O gave the basis for his opinion. Claimant=s supervisor stated in an affidavit that claimant did not want to work in positions that required a great deal of effort; that on several occasions claimant requested new positions; and that if he refused to place her in a new position, she would complain of pain and claim an injury.

The hearing officer issued three decisions, one for the claimed _____, right wrist injury; one for the claimed _____, left wrist injury; and one for the claimed _____, neck injury. The hearing officer found that claimant did not sustain a work-related injury in the course and scope of her employment on _____, or on _____, and he concluded that claimant did not sustain a compensable injury on _____, or on _____. Without a compensable injury, claimant would not have disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). When reviewing a hearing officer=s decision to determine the factual

sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Texas Workers= Compensation Commission Appeal No. 950084, decided February 28, 1995. We conclude that the hearing officer=s decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

Since the parties stipulated that venue was proper in the field office where the CCH was held, we find no merit in claimant=s complaint regarding venue. Several of Dr. O=s reports were excluded from evidence based on the hearing officer=s ruling sustaining carrier=s objection of an untimely exchange; however, the remainder of Dr. O=s reports, including a report that stated his opinion that claimant sustained work-related injuries as claimed, were admitted and made part of the record. We find no reversible error in the hearing officer=s ruling excluding the few reports that were excluded from evidence. The weight to be given to Dr. O=s opinion was for the hearing officer to determine. Section 410.165(a). To the extent that any of the documents attached to claimant=s appeals were not made a part of the CCH record, they were not considered. Section 410.203. The CCH record was considered.

The hearing officer=s decisions and orders are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Judy L. Stephens
Appeals Judge