

APPEAL NO. 000738

On March 14, 2000, a contested case hearing (CCH) was 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 issue by deciding that appellant (claimant) did not sustain a compensable injury in the form of an occupational disease on _____. Claimant requests that the hearing officer=s decision be reversed and that a decision be rendered in her favor. Respondent (carrier) requests that the hearing officer=s decision be affirmed.

DECISION

Affirmed.

Claimant began working for (employer) as a customer care advocate in August 1998. She takes repair calls from customers and inputs the information into a computer using a keyboard and mouse. She developed pain in her elbows and wrists. She claims a repetitive trauma injury. The _____, date of injury is not in dispute. She said that she worked 8 to 14 hours each workday and that the chairs she sat on either had no armrests or had low armrests that were not adjustable. An occupational disease includes a repetitive trauma injury which is defined in Section 401.011(36). Claimant went to Dr. D on April 20, 1999, and he referred her to Dr. J for electrodiagnostic testing. Dr. J reported that that testing showed bilateral mild ulnar neuropathy at the elbow, worse on the left, and no evidence of carpal tunnel syndrome (CTS) on either side. Dr. J wrote that the claimant=s mild ulnar neuropathy may relate to repetitive flexion and extension at the elbow. Claimant said that she does not repetitively flex and extend her elbows while typing but that she does keep her elbows in a fixed position while typing. Dr. D wrote that the electrodiagnostic testing revealed mild cubital tunnel syndrome and that claimant=s work activity with the keyboard aggravates her symptoms.

Claimant began treating with Dr. G in May 1999 for complaints of bilateral elbow and wrist pain and he noted in the history section of his initial report that claimant=s computer work caused her to injure her elbows and wrists. Claimant was examined by Dr. B at the request of the Texas Workers= Compensation Commission and he reported diagnoses of upper extremity joint pain bilaterally related to prolonged keyboarding and postural position and some secondary ulnar nerve irritation of the left elbow. Dr. B noted that claimant showed no signs of CTS, that claimant had no significant irritation of the ulnar nerve of the right elbow, and that clinically the left elbow had no significant changes but nerve testing had shown some slight conduction slowing. At carrier=s request, Dr. M reviewed Dr. J=s report and wrote that Dr. J was under the impression that claimant does repetitive flexion and extension at the elbow, which, Dr. M said, is not part of claimant=s job, and that many times degenerative conditions of the elbow can cause an osteophyte (bone spur) at the elbow through the canal that the nerve runs and that that will slow the ulnar nerve. Dr. M wrote that it is not likely that claimant has an

elbow lesion from her job. Dr. M examined claimant in September 1999 and reported that the primary diagnosis is bilateral ulnar nerve entrapment at the elbow and that claimant should be able to return to work at the keyboard with no repetitive flexion and extension of the elbow.

The hearing officer reviewed the evidence in the Statement of the Evidence section of his decision, made findings of fact, and decided that claimant did not sustain a compensable injury in the form of an occupational disease on _____. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Gary L. Kilgore
Appeals Judge