

APPEAL NO. 000752

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 March 8, 2000. With regard to the issues before him, the hearing officer determined that the appellant (claimant) is entitled to supplemental income benefits (SIBs) for the 18th quarter and that the claimant's compensable right hand/arm injury of _____, does not extend to left carpal tunnel syndrome (CTS). The claimant appealed the findings that the compensable injury did not extend to the left wrist, contending that his doctor said that the left CTS was related to the 1992 injury. The respondent (self-insured) responded, urging affirmance of the appealed issue. Neither party appealed the hearing officer's decision on the SIBs issue and the hearing officer's decision on that issue is final pursuant to Section 410.169 and will not be discussed further.

DECISION

Affirmed.

The vast majority of the CCH dealt with the SIBs issue. On the extent-of-injury issue, claimant testified that he was an environmental chemist for the self-insured and that on _____, he was following up on a complaint in the field when he was attacked by a German shepherd dog, injuring his right hand, right arm and . . . right shoulder. Self-insured has apparently accepted liability for a right upper extremity injury. Claimant testified that his left hand was numb also but that he does not recall when he complained to a doctor of problems with his left hand.

The medical evidence includes a report dated June 8, 1999, from Dr. C, claimant's treating doctor, where he notes complaints of some numbness in the left hand and fingers and concludes:

I believe that the finding of [CTS] on the left is related to the patient's original injury which occurred on _____.

A report dated June 9, 1999, by another doctor, references that claimant said Dr. C had diagnosed left CTS. In another report dated September 28, 1999, Dr. C remarks:

He continues to have symptoms of left [CTS] that we confirmed by electrodiagnostic testing on his last visit. . . . Apparently the comp carrier is not accepting the left [CTS] as being related to the original injury. In my opinion, however, it is related and is a result of that injury.

Evidence to the contrary is in a report dated April 27, 1999, where Dr. CC comments:

There is certainly no documentation or evidence whatsoever that this individual sustained an injury to his left hand and wrist as a result of the _____ dog attack. If indeed this individual had sustained some sort of injury to the left side, he would have experienced some sort of symptoms sooner than over 6 years later. Based on the information in the medical records, it is highly improbable that he actually sustained any injury to his left side and in all medical probability, any symptomatology he may be complaining of on the left side is in no way related to the injury of _____. The alleging from the patient that there was an injury to the left side of _____ that is just now manifesting symptoms would be contrary to the natural course of such an injury.

The evidence is in conflict on the issue of whether the compensable injury extended to the left hand. We have many times held that the hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165. The hearing officer resolves conflicts and inconsistencies in the medical evidence and judges the weight to be given to expert medical testimony. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer, as fact finder, may believe all, part, or none of the testimony of any witness. The testimony of a claimant as an interested party only raises an issue of fact for the hearing officer to resolve. Campos; Burelsmith v. Liberty Mutual Insurance Company, 568 S.W.2d 695 (Tex. Civ. App.-Amarillo 1978, no writ). The hearing officer could disbelieve claimant had hand numbness in 1992 and he could give greater weight to Dr. CC-s opinion than that of Dr. C.

Upon review of the record submitted, we find no reversible error and we will not disturb the hearing officer-s determinations unless they are 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). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Dorian E. Ramirez
Appeals Judge