

APPEAL NO. 001095

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 April 24, 2000. The hearing officer determined that the compensable injury sustained on _____, does not extend to or include an injury to the left wrist and cervical spine, and that the claimant does have disability. The appellant (claimant) appeals the hearing officer's extent-of-injury determination, urging that the great weight of the evidence is to the contrary. The respondent (carrier) replies that the hearing officer's decision is supported by sufficient evidence and should be affirmed. The issue of disability has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The claimant worked for the employer as a manager for a retail store and her job duties included ordering merchandise, counting money, working on a cash register, and writing daily reports. The claimant testified that on _____, she started feeling pain in her hands, but she continued to work. Prior to the hearing the parties reached an agreement that the claimant sustained a compensable injury in the form of an occupational disease to include carpal tunnel syndrome (CTS) and a sprain/strain to the right hand and wrist on _____. The claimant contends that the original injury of _____, extends to the left wrist and neck.

On June 9, 1999, the claimant sought medical treatment with her family doctor for complaints of pain in her wrists and fingers, morning stiffness, ankle pain, shoulder pain and left knee pain and swelling. On August 10, 1999, the claimant sought medical treatment with Dr. L after she felt pain in her right wrist while carrying a box. The claimant testified that she complained to Dr. L about pain in both wrists and her neck. Dr. L diagnosed a wrist sprain and treated only the claimant's right hand through November 19, 1999. On August 26, 1999, the claimant sought medical treatment with Dr. M. Dr. M noted complaints of cervical pain and diagnosed bilateral CTS.

The claimant had the burden to prove the extent of her compensable injury. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. The hearing officer resolved conflicting evidence and concluded that the repetitive trauma injury sustained to the right hand does not extend to the left wrist or cervical spine. In so determining, the hearing officer could consider the absence of complaints of left wrist and neck pain in Dr. L's reports. When reviewing a hearing officer's decision for factual sufficiency of the evidence, we will reverse such decision only if it is so contrary to the great weight and preponderance 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 Co., 715 S.W.2d 629, 635 (Tex. 1986). 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 decision and order of the hearing officer are affirmed.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Judy L. Stephens
Appeals Judge