APPEAL NO. 001257

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 May 5, 2000. The hearing officer determined that the respondent (claimant herein) sustained a compensable injury in the form of an occupational disease, carpal tunnel syndrome (CTS), on _____; and that the claimant had disability from July 20, 1999, through January 2, 2000. The appellant (carrier herein) appeals, contends that the claimant failed to prove a repetitive trauma injury, or, specifically, that her bilateral CTS was related to her work. The appeal file does not contain a response from the claimant.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant testified that she had been employed since 1987 as a field service representative to install, maintain, and repair lab equipment and machinery. The claimant testified that she covered a large service area and her duties often included driving six to eight hours a day as well as lifting and carrying 50 pounds of items and pushing/pulling 100-pound pieces of equipment, and that it took her a couple of hours of repetitive keyboard work to calibrate the equipment. The claimant has been diagnosed with bilateral CTS, which she relates to repetitive use of her hands at work. Dr. S, a neurosurgeon, states in a letter dated November 22, 1999, that the claimant's CTS "probably resulted from repetitive injury at work." Dr. P, an orthopedic surgeon, in a November 16, 1999, report states that it is his opinion, based upon his review of the claimant's medical records, that the claimant's CTS is not related to her work. The carrier also put into evidence some medical literature concerning CTS.

The carrier argued at the CCH, as it does on appeal, that the claimant failed to establish that her job was sufficiently repetitive to cause her CTS and that Dr. S's opinion to the contrary is based on a lack of understanding of the claimant's actual work duties. The hearing officer considered and explicitly rejected this argument, explaining in some detail his reasoning, based upon the evidence, including the medical reports and literature in evidence as well as the *Merck Manual,* of which he took official notice at the CCH.

The question of whether an injury occurred is one of fact. Texas Workers' Compensation Commission Appeal No. 93854, decided November 9, 1993; Texas Workers' Compensation Commission Appeal No. 93449, decided July 21, 1993. Section 410.165(a) provides that the contested case 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. 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). This is equally true regarding medical evidence. Texas Employers Insurance

Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, 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, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should 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 Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find sufficient evidence in the record to support the hearing officer's determination that the claimant sustained a compensable injury in the form of bilateral CTS on _____.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Robert W. Potts
Appeals Judge