APPEAL NO. 001300

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 17, 2000. The hearing officer determined that the respondent (claimant) did sustain a compensable injury in the form of an occupational disease and did have disability. The appellant (self-insured) files a request for review arguing that the claimant failed to show that her right carpal tunnel syndrome (CTS) was related to her employment. There is no response to the self-insured's request for review in the appeal file.

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 hearing officer summarizes the evidence at the CCH as follows in the portion of her decision entitled, "Statement of the Evidence":

> Claimant testified that she was employed as a clerk/secretary for the [employer] from February 18, 1999 until she left employment in April 2000. Claimant testified that her job duties included typing, filing, writing, answering the telephone, data entry and correspondence. Claimant testified that she went on maternity leave on June 8, 1999 and returned to work on or about August 8, 1999. Claimant testified that on _____, she began feeling tingling in her right hand but did not want to report anything to her employer since she had just been out on maternity leave. Claimant testified that she continued to work but that her fingers on her right hand began to "curl" and she became concerned. Claimant testified that she reported this to [Ms. G] on November 8, 1999 and was advised to see a doctor. On November 9, 1999, Claimant was seen by [Dr. P] and diagnosed with probable [CTS]. Claimant was released to return to light duty and referred for an EMG/NCV study which was performed on December 15, 1999 confirming the right [CTS] diagnosis.
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> It is undisputed by the Carrier that the Claimant has right [CTS], however, the Carrier disputes that the Claimant's condition is a result of her work activities. The Claimant testified that her job duties required the repetitive use of her hands due to typing, writing and filing. The Claimant's supervisor, [Ms. S], testified that the Claimant's work load was slow during the period of August 18, 1999 through October 20, 1999 and that she did minimal typing. The Claimant testified that she did do some typing, data entry, hand written log entries and was working on a project of updating the Rolodex with current names and addresses. The Claimant's job description includes typing, data entry, filing and other duties which appear to be repetitive in nature. The Claimant appeared credible in her testimony that she did perform repetitive

> activities with her hands, that her onset of symptoms occurred after she returned from maternity leave and that her right [CTS] was the result of her work activities. This is also supported by the medical evidence. Based on the credible evidence and testimony presented, the Claimant did sustain a repetitive trauma injury in the course and scope of her employment on _____ and, as a result of that injury, she was unable to obtain and retain employment at wages equivalent to her preinjury wage beginning November 10, 1999 and continuing through December 2, 1999.
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> Even though all of the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

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 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 claimant's testimony, the job description in evidence and the medical records to support the decision of the hearing officer. The fact that there was conflicting evidence or that different inferences could have been drawn from the evidence would not support reversal of the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Kathleen C. Decker
Appeals Judge