APPEAL NO. 001442

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 22, 2000. The hearing officer determined that: (1) the respondent (claimant) suffered a compensable carpal tunnel syndrome (CTS) injury with a date of injury of _____; (2) claimant timely reported her injury; and (3) appellant self-insured ("carrier") did not waive the right to contest the compensability of the injury.[1] Carrier appealed the injury and timely notice determinations on sufficiency grounds. The carrier waiver determination was not appealed. Claimant responded that the Appeals Panel should affirm the decision and order.

Decision

We affirm.

Carrier contends the hearing officer's determination that claimant sustained a compensable injury is not supported by sufficient evidence. Carrier asserts that claimant failed to prove that her work activities involved repetitive motion and that there is no medical evidence that her work activities caused her CTS. Carrier complains that the hearing officer should not have believed claimant's medical evidence because it is "conclusory."

The applicable law and our standard of review are stated in Texas Workers' Compensation Commission Appeal No. 992078, decided November 5, 1999; Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); Section 401.011(26); Section 401.011(34); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); and Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that she worked as a housekeeper for employer and that before that she had also worked for employer as a cook and dishwasher. She described her job duties and said she used her hands eight hours per day on the job. She testified that she began to experience numbness in her hands before _____, which she had attributed to aging. Claimant said she had been off work for an unrelated compensable back injury since _____. She testified that the doctor who treated her back, Dr. R, sent her for nerve conduction testing due to her complaints of hand numbness. She said Dr. R originally thought she might have nerve damage from her back injury. Claimant's medical records from the unrelated back injury also mention cervical problems.

In this case, the hearing officer resolved any conflicts in the evidence and determined that claimant sustained a compensable CTS injury. We will not substitute our judgment for the hearing officer's because his determination is not so against the great

[1]The decision and order states that disability was at issue, but that was not an issue in the case.

weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*. Regarding whether claimant proved that she engaged in repetitive work activities, this issue was for the hearing officer to consider in deciding this case. In a November 9, 1999, report, Dr. R stated that claimant had a history of manual activity in her job and that Dr. R felt the CTS is work related. In an October 25, 1999, report, Dr. M stated that claimant's condition was "likely a workers' compensation related phenomenon" and that claimant had described her repetitive manual work activities. The parties stipulated that claimant was diagnosed with bilateral CTS. From the evidence, the hearing officer could have believed that claimant's work involved repetitive hand movements and that claimant's CTS was work related. The hearing officer could find that the medical evidence established causation in this case. We conclude that the hearing officer's determinations in this regard are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

Carrier next contends that the hearing officer erred in determining that claimant timely reported her CTS injury. Generally, a claimant must report an occupational disease injury to his or her employer within 30 days of the date the employee knew or should have known of the condition and that it was work related. Section 409.001(a).

The hearing officer determined that claimant's "date of injury" was "_____," and that she reported it to her employer on _____. The hearing officer concluded that claimant timely reported her injury. Claimant testified that she found out that she had CTS when Dr. M, the doctor who performed EMG testing, told her on October 25, 1999. From Dr. M's October 25, 1999, record, it is clear that he discussed with claimant whether other conditions were work related, although he did not say he told claimant her CTS was work related. Claimant indicated that she reported her injury either on October 25, 1999, or on the day that she talked to Dr. R about the nerve conduction tests, which was on November 9, 1999. Claimant said she reported her injury, at the very latest, when Dr. R told her to file a separate workers' compensation claim. Claimant said she was in the habit of going to the employer after her doctor's appointments in order to inform them regarding what was going on. Dr. R's November 9, 1999, report states that claimant has a separate workers' compensation injury.

The hearing officer did find a date of injury and a date of reporting that is not supported by the evidence: _____. However, given the hearing officer's discussion, findings, and conclusion, we conclude that a remand is not warranted in this case. The hearing officer's findings regarding the date of _____, appear to be clerical errors. In the discussion portion of the decision, the hearing officer said, "The doctor ordered an EMG to check out the possibility [of CTS] and when it came back positive, [claimant] contacted employer and informed them of the injury." However, _____, is not the date that claimant's EMG "came back positive." There is evidence that claimant's EMG "came back positive" on October 25, 1999, and that claimant and Dr. M discussed which conditions were related. From the hearing officer's discussion, it is clear that he believed that claimant reported her injury the day that she learned of her EMG results. This is supported by the evidence. The decision and order indicates that the hearing officer

believed that claimant reported her injury on October 25, 1999. It is clear that the hearing officer believed that claimant's report of injury was timely. We reform Findings of Fact Nos. 6 and 7 to state that claimant first knew that her CTS was work related on October 25, 1999, and that she reported her injury to her employer on October 25, 1999. As reformed, these findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. We conclude that the hearing officer did not ere in determining that claimant timely reported her injury.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Tommy W. Lueders
Appeals Judge