APPEAL NO. 001549

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 June 20, 2000. The hearing officer determined that the respondent (claimant) sustained a compensable occupational disease, bilateral carpal tunnel syndrome (CTS), and that claimant timely reported the occupational disease to her employer. The appellant self-insured (herein referred to as "carrier" or "employer") appeals, contending that the hearing officer erred in determining that claimant sustained a compensable injury and that she timely reported her injury within 30 days of the date of her injury. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant sustained a compensable occupational disease bilateral carpal tunnel syndrome (CTS) injury. Carrier contends that claimant did not meet her burden of proof regarding causation.

The applicable law and our appellate standard of review are stated or discussed in Section 410.165(a); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995; Escamilla v. Liberty Mutual Insurance Co., 499 S.W.2d 758 (Tex. Civ. App.-Amarillo 1973, no writ); and Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992.

There was medical evidence from Dr. H in which he notes that: (1) claimant does clerical work; (2) claimant has hand weakness, numbness and tingling; (3) claimant has a positive Phalen's test and a positive Tinel's sign; (4) cervical problems were ruled out; (5) claimant's EMG studies were normal, but CTS was diagnosed and would not improve without surgery; (6) claimant underwent right CTS release surgery; and (7) claimant was attempting to straighten out a "glitch" in her workers' compensation benefits. Dr. H stated that claimant's repetitive tasks included executive secretarial work. Dr. H noted that claimant suffered from hypothyroidism and said that this may or may not have contributed to claimant's condition. In a November 19, 1999, letter, Dr. B stated that claimant's cervical MRI was normal, he found no evidence of spinal cord disease or multiple sclerosis, and that claimant has bilateral hand fatigue, but that it is difficult to arrive at any specific diagnosis.

Claimant testified that, in her current job for employer, she types about three to four hours per day. Claimant testified that in other jobs she has performed for employer, she did data entry work almost the entire day. She said she began to experience weakness in her hands, but that she did not think anything of it until _____, when her hands began to bother her at night and in the mornings. She testified that her hands did not bother her at work more than they did at home. Claimant said Dr. H did not know what was causing her condition at first and that he ran all kinds of tests to find out. Claimant testified that, after Dr. H had obtained all her test results, she asked about causation. She said that

on December 15, 1999, she asked whether the CTS was work related and told her doctor she was paying for her medical with group health insurance. She said Dr. H told her that 95% of people doing this kind of work get CTS. Claimant said also that Dr. H said "it could be" related to her work.

We conclude that there is sufficient evidence to support the hearing officer's determination that claimant sustained a compensable injury in the course and scope of her employment. Appeal No. 92083, *supra*. 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 the date of injury in this case was December 15, 1999. Carrier contends that the December 16, 1999, report of injury was not timely because claimant knew or should have known that she may have a work-related injury more than 30 days before December 16, 1999. It was undisputed that claimant reported her injury on December 16, 1999. 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 knew or should have known that her condition may be work related on December 15, 1999, when her doctor discussed whether her CTS was work related. The hearing officer judged the credibility of the evidence and we will not substitute our judgment for hers. After a review of the evidence in the record, we conclude that her determinations regarding date of injury and timely reporting are not against the great weight and preponderance of the evidence, and we decline to overturn them on appeal. Cain.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Alan C. Ernst
Appeals Judge