APPEAL NO. 001576

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 21, 2000. With respect to the single issue before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to the cervical spine. In her appeal, the claimant argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury with a date of injury of _____, namely bilateral carpal tunnel syndrome (CTS) caused by repetitive trauma. The claimant testified that she has complained of neck problems since the outset and maintains that her sitting and typing all day at an improperly designed workstation caused a cervical injury in addition to bilateral CTS. In a "To Whom it May Concern" letter dated May 1, 2000, Dr. D opined that the claimant's cervical injury "is also a classic microtrauma disorder. The prolonged desk work, with extended cervical spine flexion, created the cervical myofascial disorder and injury."

In a report dated December 13, 1999, Dr. M, a doctor to whom the claimant was referred by Dr. D for EMG testing, stated that upon examination, the claimant had no tenderness over the cervical spine, paracervical muscles, or trapezius ridge and that she had full range of motion of the neck and shoulders. In addition, Dr. M noted that the claimant's cervical EMG testing was within normal limits. In a report of January 10, 2000, Dr. B, to whom the claimant was also referred by Dr. D, diagnosed bilateral entrapment neuropathy at the wrist and "somatic dysfunction of the cervical and dorsal spine" secondary to the entrapment neuropathy. A cervical MRI of January 19, 2000, revealed "disc protrusion at C4-5, C5-6, and C6-7 lateralizing to the right without disc herniation"; "posterior longitudinal ligament thickening between C4 and C7 causing a small amount of spinal stenosis"; and "disc dehydration at C5-6 and C6-7." On May 21, 2000, Dr. W, another doctor to whom the claimant was referred by Dr. D, checked a line next to the statement that "[w]ithin reasonable medical probability I believe said Claimant's repetitive activities described in this letter were the sole cause of her current work related injury" and signed and dated the form.

The carrier had Dr. B examine the claimant. In a report dated April 12, 2000, Dr. B stated that there was no objective evidence of impairment from the claimant's physical examination or her electrodiagnostic studies and that her abnormal MRI "does not correspond to her current symptoms. . . ." Dr. B concluded that he saw "no reason to relate her current complaints to her employment."

The claimant had the burden to prove the causal connection between a cervical injury and her compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165. The hearing officer resolves conflicts and inconsistencies in the evidence and decides what weight to give to the evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer as fact finder may believe all, part, or none of the testimony of any witness. When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly 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).

The claimant argues that the hearing officer's determination that her compensable injury does not extend to the cervical spine is against the great weight of the evidence. As noted above, there was conflicting evidence on that issue. The hearing officer was acting within his province as the fact finder in deciding to resolve that conflict against the claimant. Our review of the record does not reveal that the hearing officer's extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool; Cain.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Susan M. Kelley
Appeals Judge