APPEAL NO. 001636

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. The hearing officer determined that the compensable injury sustained by the appellant (claimant herein) on _____, does not extend to bilateral carpal tunnel syndrome (CTS). The claimant appeals, arguing that the evidence, including all the medical evidence, supports that her compensable injury extended to bilateral CTS. The respondent (carrier herein) responded that there was sufficient evidence to support the decision of the hearing officer.

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.

It was undisputed that the claimant suffered a compensable injury on _____, when hot glue splashed on the palms of both her hands and the insides of both her wrists, and spiraled up her right arm toward her elbow. The claimant had wrist pain and numbness. The claimant was eventually diagnosed with bilateral CTS which she and her doctors related to her compensable injury.

We have held that the question of the extent of an injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 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).

In her appeal, the claimant argues that the overwhelming evidence in the case supported the proposition her injury extended to bilateral CTS in that her testimony and medical evidence from her doctors stated this, and that the carrier presented no contrary evidence. As the fact finder, the hearing officer was not required to be persuaded by either the claimant's testimony or her medical evidence. It was the province of the hearing officer to determine what weight to give this evidence. Applying the standard of review stated above, we do not find that the hearing officer's determination that the claimant's injury did not extend to bilateral CTS was contrary to the overwhelming evidence.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Kathleen C. Decker
Appeals Judge