APPEAL NO. 001854

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 July 21, 2000. With regard to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable occupational disease (repetitive trauma) injury on _____ (all dates are 2000 unless otherwise noted) and that the claimant had disability from March 5 through April 30.

The appellant (carrier) appealed, contending that the hearing officer failed to identify the activities he thought were repetitive and traumatic and that the hearing officer made no findings "as to the frequency or duration of any work activities which would support the finding of a compensable occupational disease injury." The carrier contends that without a compensable injury, the claimant cannot have disability. The carrier requests that we reverse the hearing officer's decision and render a decision in its favor. The appeals file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant had been employed by (employer) for 17 years in a number of capacities. In the years prior to 1998, the claimant had been employed as a baggage handler and those duties were discussed in some detail. The claimant sustained a compensable low back injury in April 1998, not at issue here, and subsequently returned to work for the employer in December 1999 cleaning airplane cabins between flights. Those duties, which included stocking airplanes with food and beverages, folding blankets, vacuuming, etc. were also discussed in detail. The claimant testified that she began to have numbness and tingling in her right hand (the claimant is right-handed and claims only a right-hand injury) "around two years" ago and had some testing done in 1997 and/or 1998 when she jammed her hand or fingers. The claimant said that the numbness and tingling got better when she was off work with her back injury but then got progressively worse and that her arm "would go to sleep" after she returned to work in December 1999. The claimant said that she called her doctor on _____ and "told him that my arm was going to sleep quite frequently now. . . ."

The claimant saw Dr. K on February 18 and he made a clinical diagnosis of carpal tunnel syndrome (CTS). In reports dated March 8 and April 11, Dr. K stated that he believed that "lifting boxes" caused the CTS and that the "conditions were brought on due to work related activities." Orthopedic testing done on April 29 showed positive Tinnel's signs and Phalen's testing. EMG testing performed on May 12 was "consistent with mild right [CTS]."

The carrier introduced the testimony of Dr. P, a board-certified orthopedic surgeon, who had done a record review of the claimant's records. Dr. P testified that there is a

difference between repetitive tasks which can cause CTS and redundant tasks which do not. (The biggest distinction is the amount of recovery time between motions.) Dr. P was of the opinion that the claimant's tasks were redundant rather than repetitively traumatic. When asked about the objective testing indicating CTS, Dr. P was critical of the technique used. The hearing officer discusses Dr. P's testimony in some detail.

> The hearing officer, in his Statement of the Evidence, commented:
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> > After considering all of the testimony, I conclude that the tasks which the claimant performed were performed with such frequency as to be repetitious. I also conclude that they were traumatic, and also engaged in to a greater degree than that to which the general public is exposed outside employment. Accordingly, I find that the claimant has met her burden of proving the existence of a compensable injury, as well as the existence of disability throughout the claimed periods of time.

The carrier appeals, contending that the hearing officer failed to specify what activities are repetitive, which are traumatic "or the frequency and duration of the alleged repetitive activities." While the hearing officer did fail to specify all of the activities he might have believed were repetitive and traumatic, there was fairly extensive unrefuted testimony regarding the claimant's duties as a baggage handler taking bags on and off a conveyor belt and loading them on carts. Similarly, there was testimony regarding the claimant's numerous duties cleaning and stocking the airplanes between flights. We do not find reversible error in the hearing officer's failure to make specific findings on each and every specific duty that he found traumatically repetitive.

An "occupational disease" is "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. . . . The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). A "repetitive trauma injury" is "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." Section 401.011(36). An employee must prove, by a preponderance of the evidence, the compensability of an occupational disease. Texas Workers' Compensation Commission Appeal No. 960582, decided May 2, 1996, citing Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). "[O]ne must not only prove that recurring, physically traumatic activities occurred on the job, but must also prove that a causal link exists between these activities on the job and one's incapacity; that is, the disease must be inherent in that type of employment as compared to employment generally." Texas Workers' Compensation Commission Appeal No. 950868, decided July 10, 1995 (Unpublished), citing Davis v. Employers Insurance of Wausau, 694 S.W.2d 105 (Tex. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.).

The hearing officer determined that the claimant's actions involved in her employment were causally linked to her condition. We hold that the hearing officer's decision is sufficiently supported by the evidence, Dr. K's reports, and the objective testing. The hearing officer's decision regarding disability is also supported by the evidence.

Upon review of the record submitted, we find no reversible error. We will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Tommy W. Lueders
Appeals Judge