APPEAL NO. 002185

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 August 25, 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 or include bilateral carpal tunnel syndrome (CTS) as a result of a double crush syndrome. In his appeal, the claimant essentially argues that that determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____, when he was struck in the head with a piece of plywood. The issue before the hearing officer is whether that incident caused the claimant to develop bilateral CTS as a result of a double crush syndrome. The claimant testified that on _____, he was struck in the head by a piece of falling plywood, which knocked him to the ground. The claimant stated that he also lost consciousness as a result of the blow to the head, but he is uncertain as to the duration of his loss of consciousness. The claimant testified that he began to develop problems with weakness and cramping in his arms shortly after his injury; however, on cross-examination, he acknowledged that the problems with his arms were not identified as CTS until June 1999.

The claimant initially sought medical treatment with Dr. F. Dr. F diagnosed a cervical sprain and treated the claimant with medication and physical therapy. The claimant changed treating doctors to Dr. H, whose treatment also focused exclusively on the cervical spine. In April 1999, the claimant began treating with Dr. W. Dr. W referred the claimant for a cervical MRI, and EMG and NCV testing. In progress notes of June 25, 1999, Dr. W diagnosed bilateral CTS. In a letter dated November 15, 1999, Dr. W stated that the claimant's bilateral CTS "is a direct consequence of [the claimant's compensable] injury secondary to double crush syndrome." In progress notes of January 31, 2000, Dr. W stated that the claimant's cervical and upper extremity problems are "compatible" with his injury of being hit on the head with a sheet of plywood at work.

On May 1, 2000, Dr. C performed a required medical examination of the claimant at the request of the Texas Workers' Compensation Commission. In a report of the same date, Dr. C opined that the claimant's compensable injury caused a double crush syndrome, which in turn caused bilateral CTS.

The claimant had the burden to prove the nature and extent of his compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). An extent-of-injury issue presents 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(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts have been established. 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. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In this instance, the hearing officer determined that the claimant did not sustain his burden of proving that his _____, compensable injury extends to or includes bilateral CTS as a result of a double crush syndrome. That is, the hearing officer was not persuaded that there was a causal connection between the claimant's being struck on the head by a piece of falling plywood and his development of bilateral CTS. As the fact finder, the hearing officer was free to discount the causation opinions of Dr. W and Dr. C. The conclusions of an expert are not binding on the fact finder even when not contradicted by another expert. *See* Gregory v. Texas Employers Ins. Ass'n, 530 S.W.2d 105 (Tex. 1975). Our review of the record does not demonstrate 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, *supra*; Cain, *supra*.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge