

## APPEAL NO. 002222

On August 23, 2000, a contested case hearing (CCH) was held in Dallas, Texas, with Charles T. Cole presiding as the hearing officer. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease on \_\_\_\_\_, and that the claimant has not had disability. The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in her favor. The respondent (self-insured) requests that the hearing officer's decision be affirmed.

### DECISION

Affirmed.

The claimant testified that she began working in the self-insured's school cafeteria as a food service assistant in 1989. In a 1992 medical record, Dr. M diagnosed the claimant as having mild right carpal tunnel syndrome (CTS).

The claimant testified that she had a work-related injury to her right hand and wrist in April 1997 for which she was treated by Dr. M. The claimant said that she did not have right elbow or right shoulder problems as a result of her April 1997 injury. Dr. M's medical records for the April 1997 injury contain diagnoses of right CTS and overuse tenosynovitis. Dr. M referred the claimant to Dr. G, who wrote in June 1998 that the claimant had complaints of pain and numbness in her right hand and right elbow and that the claimant's complaints were likely due to flexor tenosynovitis of the right hand and wrist due to overuse of her hands at work. Dr. M noted in June 1998 that the claimant's CTS was resolved but that she continued to have aggravation of her symptoms from overuse. Dr. G wrote in July 1998 that the claimant complained of pain in her right upper arm and shoulder.

On August 6, 1998, Dr. M released the claimant to full-duty work without restrictions and noted that the claimant had full use of her right hand and right upper extremity. The claimant said that she was off work for her April 1997 injury for over a year and that she returned to work in August 1998. On August 7, 1998, Dr. W wrote that a nerve conduction velocity study of the claimant's right upper extremity done that day showed slowing of the right ulnar nerve, which he said was suggestive of trauma or entrapment of the ulnar nerve at the elbow, and mild slowing in the median nerve between the elbow and the wrist, which he said was suggestive of trauma or entrapment of the median nerve in the forearm. Dr. W noted that an EMG study was within normal limits. Dr. M reported that the claimant reached maximum medical improvement for her April 1997 injury in August 1998 with a zero percent impairment rating.

The claimant said that when she returned to her work as a food service assistant in August 1998, she continued to have some problems with her right hand but had no problems with her right elbow or right shoulder.

With regard to the current workers' compensation claim, the claimant testified that on \_\_\_\_\_, she had right hand pain while performing her job duties scrubbing chairs and pans at work on that day and that the next day she was unable to raise her right arm. The claimant stated that her claimed injury of \_\_\_\_\_, extends to her right hand CTS, right elbow, and shoulder.

The claimant has been treated by Dr. S for her claimed work-related injury of \_\_\_\_\_, and Dr. S's records reflect that the claimant complained of pain in her right wrist, elbow, and shoulder after scrubbing chairs and pans at work on \_\_\_\_\_; that he is treating her right wrist, elbow, and shoulder; and that he took the claimant off work on May 21, 1999. Dr. J reported that x-rays of the claimant's right wrist, elbow, and shoulder done in June 1999 showed no acute bony abnormalities.

Dr. S referred the claimant to Dr. T, who reported that electrodiagnostic testing done in July 1999 showed slowing of the right ulnar nerve and mild slowing in the right median nerve consistent with CTS. Dr. T diagnosed the claimant as having post-traumatic ulnar nerve neuropathy at the right elbow and right CTS, both secondary to overuse.

Dr. S wrote in September 1999 that he has been treating the claimant for a work-related injury of \_\_\_\_\_, and that in his opinion the claimant injured her right wrist, elbow, and shoulder as a result of her job activities.

The claimant had the burden to prove that she was injured in the course and scope of her employment and that she had disability. The hearing officer made findings of fact and determined that the claimant did not sustain a compensable injury in the form of an occupational disease on \_\_\_\_\_, and that the claimant has not had disability as a result of her alleged injury of \_\_\_\_\_. There is conflicting evidence in this case. The hearing officer found that the claimant sustained no new damage or harm to the physical structure of her body on \_\_\_\_\_. As the trier of fact, the hearing officer resolves the conflicts in the evidence. The hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer could consider the similarity in the findings of the August 1998 and July 1999 electrodiagnostic studies and the right elbow and shoulder complaints that are in the June and July 1998 medical records. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Without a compensable \_\_\_\_\_, injury, the claimant would not have disability, as defined by Section 401.011(16), as a result of that claimed injury.

The hearing officer's decision and order are affirmed.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Judy L. Stephens  
Appeals Judge