

APPEAL NO. 002284

Following a contested case hearing held on August 16, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issue by determining that the appellant's (claimant) compensable injury did not include carpal tunnel syndrome (CTS). The claimant appeals, arguing that the hearing officer's resolution of the issue is contrary to the evidence and pointing to specific evidence in the record relating the claimant's CTS to her compensable injury. The respondent (carrier) replies that the decision of the hearing officer was sufficiently supported by the evidence.

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.

The claimant testified that on November 24, 1998, while working as a dishwasher for the employer, she was lifting, pulling and stacking tea glasses when she felt a sharp pain in the right of her chest and a burning sensation to the tips of her fingers. The claimant was initially diagnosed with cervical/thoracic strain. The claimant was later diagnosed with CTS. There is medical evidence relating the claimant's CTS to her compensable injury and medical evidence, primarily from Dr. T, a neurosurgeon, relating the claimant's CTS to her compensable injury. There was contrary evidence from Dr. K, the carrier's required medical examination doctor, who agreed that the claimant had CTS, but stated that she did not believe it was related to the 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).

Applying this standard of review, we do not find that the overwhelming evidence was contrary to the finding of the hearing officer that the claimant's injury did not extend to bilateral CTS. There was conflicting medical evidence concerning this matter and it was the province of the hearing officer to resolve this conflicting evidence.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Judy L. Stephens
Appeals Judge