

## APPEAL NO. 002435

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 September 25, 2000. With regard to the only issue before him, the hearing officer determined that the appellant's (claimant) injury of \_\_\_\_\_, does not extend to or include bilateral carpal tunnel syndrome (CTS), depression, or an injury to the left foot.

The claimant appeals, contending that the hearing officer's decision is against the great weight of the evidence and requests that we reverse the hearing officer's decision and render a decision in her favor. The respondent (self-insured) responds, urging affirmance.

### DECISION

Affirmed.

The claimant testified that she was a seasonal employee of the self-insured's (employer) and that while getting out of a truck on \_\_\_\_\_, she slipped and twisted her right ankle. There does not appear to be a serious dispute that the claimant sustained a compensable right ankle (and perhaps right thigh) injury on \_\_\_\_\_. The claimant was taken to a hospital emergency room, x-rays were taken, and no fractures were found. The medical records indicated that the claimant's ankle was splinted. The claimant was diagnosed with a sprained ankle. Exactly what happened next is not clear. Apparently, the claimant's foot was placed in a "fracture boot." The claimant began treatment with Dr. A, the claimant's leg was placed in a lower leg cast for about eight weeks, and then the claimant "subsequently graduated to an air splint." The claimant testified that her right ankle injury caused her to have difficulty walking and that a doctor told her to use crutches, that the crutches and a wheelchair caused her to develop wrist pain which developed into bilateral CTS, that the pain from her injury caused her to experience depression, and that having her right leg in a cast and using crutches caused her to develop some sort of unspecified left leg/foot injury.

Dr. B, who is apparently associated with Dr. A, in a report dated December 15, 1998, diagnosed a sprained ankle, returned the claimant to limited work (disability is not an issue), noted the claimant "still cannot walk . . . without the cast" and commented "I am at a loss of explaining the continuing pain." An MRI of the right ankle performed on May 11, 1999, was normal. The claimant was examined by Dr. R, a designated doctor, who in a report dated August 4, 1999, certified maximum medical improvement (MMI) with an 8% impairment rating (IR) (MMI and IR are not at issue), and recited the claimant's medical history, noting a past medical history of depression, low back pain, and a left knee injury. Dr. R had an impression of a severe right ankle sprain with associated tendinitis.

The self-insured contends that the claimant has failed to establish a causal connection between any of the claimed conditions and her right ankle injury and that while

the claimant testified about the use of crutches and a wheelchair, none of the medical records show that equipment was prescribed by a doctor. The self-insured also contends that the claimant had a prior medical history of the conditions she is claiming were caused by her ankle injury (Dr. R's report).

The hearing officer found that the claimant's depression, bilateral CTS, and left foot injury were not caused by the \_\_\_\_\_, right ankle injury. We hold that those findings are supported by the evidence.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as 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 (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 (Tex. App.-Houston [14th Dist.] 1984, no writ).

We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance 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 Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion for that of the hearing officer.

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.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge