

APPEAL NO. 002467

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 October 11, 2000. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease "on" \_\_\_\_\_, and that she did not have disability. Claimant appealed these determinations on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contends that the hearing officer erred in determining that there was no compensable injury or aggravation of a previous injury "on" \_\_\_\_\_, "or any other date." Claimant asserts that the hearing officer "seems to believe claimant had a shoulder problem on an earlier date but she should have reported it sooner." Claimant contends that the hearing officer's determination that claimant had prior shoulder problems in \_\_\_\_\_ does not mean that she did not sustain a new repetitive trauma injury to her neck and shoulder with a date of injury in \_\_\_\_\_.

The applicable law regarding occupational disease injuries and our standard of review in this case are discussed in Texas Workers' Compensation Commission Appeal No. 000398, decided March 30, 2000. In this case, claimant's assertion was that she sustained a repetitive trauma injury to her neck and shoulders, and that the pain became very severe in February 2000, so she reported an injury. Claimant said she had sustained a prior compensable wrist injury with a date of injury in \_\_\_\_\_. There was medical evidence in 1999 from claimant's doctor for the \_\_\_\_\_ compensable injury that what claimant was experiencing was pain from her \_\_\_\_\_ wrist injury that was radiating up into her neck. Adding to the confusion about the source of claimant's condition, claimant acknowledged that there was evidence that she had also reported two left arm and/or shoulder injuries to employer, apparently in \_\_\_\_\_ and \_\_\_\_\_. Regarding this claim, however, claimant testified that in February 2000, the pain became so severe that she decided that her shoulder and neck pain involved more than just radiating pain from her wrist. Claimant's new treating doctor, Dr. M, opined that claimant had sustained a new repetitive trauma injury to her neck and shoulder.

The hearing officer was the judge of the credibility of the witnesses and medical evidence. As the fact finder, he considered the issue of whether claimant sustained an occupational disease repetitive trauma injury or aggravation injury to her neck and shoulder, and resolved this issue against claimant. It is not clear from the hearing officer's determinations whether he determined that claimant's current condition, if any, involved pain alone, and not an actual injury, or, assuming he did find that claimant had pain, what caused the pain. What is clear is that the hearing officer determined that claimant did not

sustain “an injury or aggravation of a previous injury on \_\_\_\_\_, or on any other relevant date.” After reviewing the evidence, we conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Because we have affirmed the hearing officer's compensability determination, we also affirm the hearing officer's disability determination. Disability, by definition, depends upon there being a compensable injury.

We affirm the hearing officer's decision and order.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge