

APPEAL NO. 002604

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 11, 2000, a hearing was held. The appellant (self-insured) has appealed the hearing officer's determination that the respondent's (claimant) compensable injury extends to her diagnosis of thoracic outlet syndrome and that she had disability from July 8, 1999, through the date of the hearing. The claimant has responded that the hearing officer's decision is supported by the evidence and should be affirmed.

DECISION

We affirm the decision and order of the hearing officer.

The claimant sustained a compensable injury on _____. It is undisputed that the injury occurred when the claimant fell on the self-insured's school bus parking lot. The claimant saw several doctors shortly after her fall. On February 16, 1999, the claimant's treating doctor, Dr. Le, referred the claimant to Dr. J, a neurologist. After his initial examination of the claimant on April 6, 1999, Dr. J suspected that the claimant's injury might include thoracic outlet syndrome. Dr. J confirmed that diagnosis with additional testing. A Texas Workers' Compensation Commission-selected required medical examination doctor, Dr. K, concurred with Dr. J's diagnosis.

The self-insured offered the opinions of several doctors, including both a peer review doctor and doctors who have examined the claimant and participated in her early care. The self-insured's experts disagree that the claimant has a thoracic outlet injury and/or that the incident of _____, could cause such an injury. It is noted that the peer review doctor found minimal support for the thoracic outlet syndrome diagnosis, but did not believe that it was related to the _____, event.

Whether the claimed thoracic outlet syndrome is a naturally flowing result of the events which gave rise to the undisputed compensable injuries of _____, is beyond common experience and requires expert medical evidence. Houston General Insurance Co. v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93939, decided November 24, 1993. Such evidence, albeit conflicting, was presented to the hearing officer. Based upon the evidence before her, the hearing officer found that the claimant's injury included the diagnosis of thoracic outlet syndrome and that the claimant had disability, the inability to obtain and retain employment at wages equivalent to her preinjury wage, as a result of the compensable injury, from July 8, 1999, through the date of the hearing.

The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, including medical evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our

judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. In this case, we do not find that the hearing officer's determinations are so against the great weight of the evidence as to be either clearly wrong or manifestly unjust.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge