APPEAL NO. 002627

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On October 9, 2000, a hearing was held. The appellant (claimant) has appealed the hearing officer's determinations on compensability and disability. The respondent (carrier) responds that the hearing officer's decision should be affirmed.

DECISION

We affirm.

The claimant appealed the hearing officer's admission into evidence of several transcripts of recorded interviews conducted with the claimant and some former coworkers. The claimant asserts that admitting the not signed interview transcripts into evidence was error because the transcripts were unsigned by anyone, even the transcriptionist. The claimant cites several Appeals Panel decisions in support of his position that the hearing officer erred, including, but not limited to, Texas Workers' Compensation Commission Appeal No. 960662, decided May 15, 1996. We disagree. In Texas Workers' Compensation Commission Appeal No. 990537, decided April 26, 1999, we rejected a similar argument, stating in part that "Section 410.165(b) does not say that hearing officers are to automatically exclude unsigned telephone transcriptions of witness statements and a hearing officer has the discretion whether to admit such statements."

The claimant further appeals the hearing officer's determination that he did not sustain a compensable injury, asserting that the hearing officer's decision is against the great weight and preponderance of the evidence and that the hearing officer failed to make any findings on the claimant's theory that his underlying, preexisting injury may have not been caused by his employment, but that the activities required by his employment resulted in an aggravation of the preexisting injury. The claimant asserts that the hearing officer failed to consider the alternative argument that the claimant's job duties resulted in an aggravation of the underlying disease. We disagree.

The statement of evidence in the hearing officer's decision and order reflects the hearing officer's awareness that the claimant was asserting an aggravation injury. As an appeals body, we presume that the hearing officer knows the law and applies it correctly. The hearing officer made three findings of fact regarding the causation of the claimant's avascular necrosis. Those findings, while they do not contain the word "aggravation," address both of the methods of causation alleged by the claimant, repetitive trauma causing the avascular necrosis and repetitive trauma causing the aggravation of the avascular necrosis, and the potential of a specific injury.

There was conflicting evidence regarding whether the claimant's work activities constituted repetitive trauma which caused the claimant's avascular necrosis. Where there are conflicts in the 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.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

CONCUR IN THE RESULT:

Robert W. Potts
Appeals Judge