

APPEAL NO. 002666

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 18, 2000. The issues at the CCH were whether the respondent (claimant) had sustained a compensable injury in the form of an occupational disease on _____, and whether the claimant had disability resulting from the claimed injury. The hearing officer ruled in favor of the claimant on both issues and the appellant (carrier) appealed. The carrier asserts that the hearing officer's decision on compensability is against the great weight of the evidence and is not supported by credible medical evidence. The carrier requests that we reverse and render a new decision that the claimant did not sustain a compensable occupational disease injury. Although not specifically addressed in its appeal, we conclude that the carrier appeals the disability determination on the basis that there was no compensable injury and, therefore, no disability. The claimant responded, asserting that the hearing officer's decision is supported by the evidence and requesting that we affirm the decision.

DECISION

Affirmed.

The claimant had worked for (employer) for only a short time as a construction helper when he began to develop tingling in his left hand. The tingling was reported to the claimant's supervisor. Approximately a month after first reporting the symptoms to his employer, the claimant began treating with his personal doctor and was diagnosed as having carpal tunnel syndrome (CTS). The hearing officer found that the claimant's CTS was the result of the claimant's activities at work, which included shoveling and using a jackhammer and other power tools. The hearing officer also found that the claimant had disability resulting from the compensable injury from May 5, 2000, through the date of the hearing.

The carrier appealed, asserting that the claimant's employment was not of such a nature as to be repetitive. The carrier also asserted that the claimant had not been employed with employer long enough to develop CTS. Lastly, the carrier asserts that the claimant failed to present medical evidence of sufficient credibility to establish a compensable occupational disease.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). A claimant's testimony alone may be sufficient to prove an injury. Texas Workers' Compensation Commission Appeal No. 91065, decided December 16, 1991. The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. 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). Although a diagnosis of CTS

must be based on expert medical evidence, we have routinely held that the cause of the CTS, or repetitive trauma wrist injury, can be established by the testimony of the claimant alone if found credible by the hearing officer. See, e.g., Texas Workers' Compensation Commission Appeal No. 961008, decided July 1, 1996; Texas Workers' Compensation Commission Appeal No. 941077, decided September 26, 1994; and Houston Independent School District v. Harrison, 744 S.W.2d 298 (Tex. App.-Houston [1st Dist.] 1987, no writ). The evidence before her was sufficient for the hearing officer to conclude that the claimant's employment was a cause of the CTS injury.

Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Disability, by definition, depends upon there being a compensable injury. *Id.* In the case before us, the carrier's attack on the hearing officer's determination of disability rests on its contention that the claimant did not sustain a compensable injury.

Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgement for hers. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994.

The decision and order of the hearing officer are affirmed.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge