

## APPEAL NO. 002776

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 November 2, 2000. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that he did not have disability. In his appeal, the claimant argues that the hearing officer's injury and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

### DECISION

Affirmed.

The claimant testified that he sustained bilateral carpal tunnel syndrome (CTS) in the course and scope of his employment at a company where he folded boxes. He stated that on average, he worked 10 hours per day, five days per week, and that after he had worked for the employer for a few months, he began to notice pain and swelling in his hands. He contended that the constant repetitive hand activity involved in folding the boxes caused him to develop CTS. Ms. H, the branch manager of the employer staffing company that assigned the claimant to the job folding boxes, testified that the claimant began working for the employer on May 30, 2000; thus, he had only been working for approximately two weeks as of \_\_\_\_\_, the date of injury alleged by the claimant. In addition, Ms. H stated that the claimant's last day to work for the employer was July 5, 2000; that he was only scheduled to work 40 hours per week; that he never worked 50 hours per week; and that he was only paid overtime (i.e. only worked more than 40 hours per week) in one week of his employment.

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. In her role as the fact finder, the hearing officer determined that the claimant did not sustain his burden of proving the causal connection between his bilateral CTS and his employment. As noted above, there was conflicting evidence on the nature and duration of the claimant's performance of repetitive activities at work. The hearing officer was free to resolve that conflict against the claimant and to determine that he did not present sufficient evidence to sustain his burden of proving a compensable injury. Nothing in our review of the record demonstrates that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse the hearing officer's injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986)

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did

not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The claimant attaches exhibits to his appeal that were not admitted in evidence at the hearing. In fact, neither party's exhibits were admitted because neither side complied with the exchange requirements. The claimant did not appeal the hearing officer's evidentiary ruling; thus, it is not before us on appeal. Generally, our review on appeal is limited to the record developed at the hearing (Section 410.203) and the claimant makes no showing that the evidence attached to the appeal satisfies the requirements to justify a remand for consideration of that evidence. See Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ).

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Kenneth A. Huchton  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge