

APPEAL NO. 002879

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 26, 2000. The hearing officer held that the respondent's (claimant) compensable injury extended to reflex sympathetic dystrophy (RSD).

The appellant (carrier) appeals this determination to the extent it is not limited only to the claimant's upper extremity, and complains that the hearing officer would not allow the issue to be amended to specify the body part affected by RSD. The carrier then also goes on to appeal the determination that the claimant had RSD. The claimant responds that the hearing officer did not err by failing to amend the issue. The claimant responds that the decision on RSD is supported by the preponderance of the medical evidence.

DECISION

We affirm the hearing officer's decision and order.

Brief Facts. The claimant strained her left hand on _____. Her pain got worse over the ensuing months and began to spread to her entire extremity. Signs such as swelling, discoloration, and temperature change were observed in this hand. The claimant testified that her pain had spread into her right side across the back of her neck.

The medical evidence was conflicting, including a split in opinion among doctors who treated claimant for chronic pain at a pain clinic. Most of the claimant's treating and referral doctors, however, concurred that she had stage I RSD. One doctor for the carrier changed his mind from questioning the RSD to agreeing that she had it. The claimant testified that she had fallen on a parking lot in December 1998; records both before and after that fall, however, diagnosed RSD, and little or no evidence was adduced to attribute her symptoms only to that fall.

At the beginning of the CCH, the carrier argued that the hearing officer should amend the issue on extent of injury that had been reported from the benefit review conference (BRC) to limit the extent to the upper left extremity. The claimant responded that this was not the issue reported from the BRC and, further, that extent of injury would not be appropriate because RSD was progressive and was a disease of the nervous system, not a specific region of the body.

Procedural Issue. The hearing officer did not err by refusing to narrow the issue. The BRC report made no such limitation in the general extent issue reported and no good cause was shown for not limiting the issue at the BRC. The carrier's position at the BRC was that RSD did not exist at all. The claimant's argument that RSD is a nerve syndrome is well taken. Furthermore, there was medical evidence indicating that although primarily manifesting in the claimant's upper left extremity, the claimant had associated pain elsewhere.

Extent Issue. The hearing officer did not err by determining that the claimant's injury extended to RSD. Development of RSD from a left-hand strain is a matter beyond common experience, and medical evidence is required which establishes the connection as a matter of reasonable medical probability, as opposed to a possibility, speculation, or guess. See Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.); Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). There are numerous medical opinions which supply support for the hearing officer's decision. An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ).

In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951), and we affirm the decision on all appealed points. We affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Gary L. Kilgore
Appeals Judge