

## APPEAL NO. 010010

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 15, 2000. With regard to the only issue before him the hearing officer determined that the appellant's (claimant) compensable left index, middle, and ring finger injury of \_\_\_\_\_, does not extend to the left wrist, little finger, and thumb.

The claimant appealed, asking the Appeals Panel to review the medical evidence, in particular Dr. Z's reports, and asserting that the compensable injury caused him to have carpal tunnel syndrome (CTS) in his left wrist. The respondent (carrier) responds, urging affirmance.

### DECISION

Affirmed.

The claimant was employed as a mover and sustained a compensable left hand injury on \_\_\_\_\_. Much of this case turns both on semantics and the claimant's credibility. The claimant testified, and many of the medical records recite, that the claimant's hand was crushed when "a heavy wooden door" or a "vault door" fell on the claimant's left hand. Testimony and photographs in evidence established that the end of a plywood packing crate (called a vault) fell on the claimant's hand. The claimant was treated at (clinic) where the claimant was diagnosed as having finger contusions of the left index, third, and fourth fingers. (One report does indicate that the claimant complained of pain in his fifth finger or little finger.) The claimant was seen on December 4, 7, 8, 9, and 11; abrasions were noted on the index, third, and fourth fingers; and the claimant was released to light duty. The claimant testified that in January 1999, when he was in the clinic with another unrelated injury, he mentioned his fingers to a doctor, who told him his case (for the \_\_\_\_\_ injury) was closed. Whether and who allegedly made that statement is in dispute. The claimant was eventually referred to Dr. Z due to the \_\_\_\_\_ injury and Dr. Z ordered EMG testing. EMG testing performed on September 26, 1999, for the \_\_\_\_\_ injury indicated bilateral CTS, cubital tunnel syndrome, and radial tunnel syndrome. Although other testing was normal, Dr. Z, in a report dated June 26, 2000, comments that the claimant's "problems" began on \_\_\_\_\_, when "he crushed his fingers." That report diagnosed left CTS and suggested surgery. There was other substantially conflicting medical evidence, including a deposition on written questions of Dr. P, who stated that Dr. Z's report was "non-conclusive."

The hearing officer commented that he found the medical evidence, establishing a causal connection between the compensable injury and the claimed additional injuries to the left wrist, thumb, and little finger, "weak" and that the claimant was "not credible."

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v.

Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Kenneth A. Huchton  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge