

APPEAL NO. 010355

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 January 18, 2001. The hearing officer determined that the appellant's (claimant) compensable (left wrist ganglion cyst) injury of \_\_\_\_\_, does not extend to or include the claimant's cervical spine and/or left shoulder.

The claimant appeals, basically on a sufficiency of the evidence basis. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed by a uniform rental service matching pants and shirts of various uniforms. The claimant developed a ganglion cyst on her left wrist which was reported with a date of injury of \_\_\_\_\_. The claimant initially saw Dr. V, who had treated the claimant for a prior ganglion cyst. The carrier accepted liability for a compensable left wrist ganglion cyst injury. Subsequently, Dr. V referred the claimant to Dr. F, who placed the claimant on light duty with no left hand use and on September 8, 1998, excised the ganglion cyst. The claimant continued to work light duty with no additional complaints until the morning of December 30, 1998, when she was terminated for insubordination and failure to attend a meeting. Subsequently, on the evening of December 30, 1998, the claimant went to a hospital emergency room (ER) complaining of left wrist pain and weakness. An ER diagram indicates "pain radiation" from the left wrist and hand up to the left shoulder. The claimant also apparently saw an attorney on December 30, 1998, who referred her to Dr. D, a chiropractor. There is an Initial Medical Report (TWCC-61) dated December 30, 1998, from Dr. D in evidence but he apparently did not actually examine the claimant until January 6, 1999. In a report of that date, Dr. D notes pain radiating "upward to the right upper shoulder and neck region." (Other references are to a left hand injury.) The claimant had a second surgery for recurrence of the ganglion cyst in April 1999. The attorney subsequently also referred the claimant to Dr. G, who, in a report dated July 27, 2000, stated that "the body parts that are involved are [the claimant's] neck, left shoulder, left upper arm, left elbow, left forearm, left wrist and left hand . . . are all directly related to the excision of the ganglion cyst performed on April 6, 1999." Medical evidence to the contrary is from Dr. T, the carrier's required medical examination doctor, who opined that the compensable injury "is localized around the left wrist" and Dr. S, the designated doctor, who in a report of June 23, 2000, stated that "[t]here is no documentation that any body part beyond the wrist/hand is a compensable injury."

The hearing officer, in her discussion, commented:

Claimant has failed to demonstrate by a preponderance of the credible evidence that she has sustained damage of [sic] harm to the physical structure of her left shoulder and/or cervical spine, much less that any such hypothetical injury is due to her on-the-job injury of \_\_\_\_\_ . . . .

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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Philip F. O'Neill  
Appeals Judge

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Robert W. Potts  
Appeals Judge