APPEAL NO. 010741

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 March 20, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury, bilateral carpal tunnel syndrome (CTS), and that she had disability as a result of her compensable injury from October 24, 2000, through the date of the hearing. In its appeal, the appellant (carrier) argues that those determinations are against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable occupational disease, repetitive trauma injury. The question of whether the claimant sustained a compensable injury was a question of fact for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). In this instance, there is sufficient evidence in the record to support the hearing officer's injury determination, namely the claimant's testimony about the repetitive activities she performed at work and the evidence from Dr. I, the claimant's treating doctor, diagnosing bilateral CTS and attributing it to the claimant's work activities. The hearing officer was acting within his role as the fact finder in giving more weight to that evidence than to the evidence from Ms. J that the claimant's work duties were far less repetitive than the claimant asserted and to the evidence from Dr. P, who conducted a peer review for the carrier, and opined that even if the claimant had CTS, it was not related to her employment. The hearing officer's injury determination is not so against the great weight of the evidence as to compel its reversal on appeal.

The success of the carrier's argument that the claimant did not have disability is dependent upon the success of its argument that the claimant did not sustain a compensable injury. Given our affirmance of the injury determination, we likewise affirm the determination that the claimant had disability, as a result of her compensable injury, from October 24, 2000, through the date of the hearing.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge