APPEAL NO. 011087
FILED JUNE 26, 2001

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 April 26, 2001. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) compensable injury of _____, extends to the right carpal tunnel syndrome (CTS) and the right radial tunnel syndrome (RTS), and that the claimant had disability from May 12, 2000, through August 10, 2000, and from September 5, 2000, through the date of the CCH. The appellant (self-insured) appealed on sufficiency of the evidence grounds and the claimant responded, urging affirmance.

DECISION

The hearing officer's decision is affirmed.

There is conflicting medical evidence in this case. The self-insured presented evidence that the diagnostic tests performed on the claimant (MRI, EMG, and NCV) were negative for right CTS and right RTS, and medical peer review reports from several doctors indicating that the claimant does not have right CTS and right RTS. The claimant presented evidence from several doctors indicating that her orthopedic testing was positive for right CTS and right RTS; even the self-insured-selected required medical examination doctor opined that the claimant may be a surgical candidate.

The hearing officer determined that the claimant's testimony was credible, and that the testimony from the self-insured's expert was not. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as 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. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We have previously held "[w]hile a positive EMG test may well be the 'gold-plate' standard for rendering a diagnosis of CTS, particularly where surgery is being considered, we are pointed to no authority for the proposition that, absent a positive EMG, a hearing officer is precluded from finding the existence of CTS." Texas Workers' Compensation Commission Appeal No. 001063, decided June 27, 2000. The hearing officer's determinations are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge