APPEAL NO. 011093
FILED JUNE 21, 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 May 1, 2001. The only issue was:

> Is the Claimant's [respondent] diagnosis of bilateral carpal tunnel syndrome [BCTS] a result of the _____ compensable injury or a continuation of the _____ compensable injury?

The hearing officer determined that the diagnosis of BCTS was the result of the 1997 compensable injury and was not a continuation of the 1993 injury.

The appellant (self-insured) appeals, asserting there is no credible medical evidence or objective proof that the claimant even has BCTS and that generalized medical opinions are insufficient to support the hearing officer's decision. The file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable cervical spine injury on _____, and a "compensable injury to her bilateral wrists on _____." In 1993, the claimant had been employed as a janitor and sustained the cervical spine injury using a buffer on some stairs. The claimant's treating doctor for the 1993 injury was Dr. P. At some point between October 1993 and October 1997, the claimant received retraining as a secretary or computer operator. The parties stipulated that the claimant sustained a repetitive trauma injury to her wrists due to typing on _____. At issue in this case is whether the claimant has BCTS and whether the claimant's diagnosed condition is really a continuation of the 1993 cervical injury or the 1997 wrist injury.

The medical evidence is conflicting. Although Dr. B, the claimant's treating doctor for the 1997 injury, initially suggested in a report dated October 14, 1997, that there may be "a connection between the herniated disc [in the claimant's neck] and the numbness . . . in her hands," in other reports he is quite unequivocal that the claimant has BCTS based on positive Phalen's and Tinel's tests. Dr. P also wrote that the 1993 injury involved "chronic residual post-traumatic episodic cervical thoracic myofacial syndrome" which was "unrelated to her [CTS] treated by [Dr. B]." Dr. B's position is also supported by Dr. N, a required medical examination doctor who states that the claimant "has very convincing clinical symptoms and findings of [CTS]" and that he agrees with Dr. B's suggestion for BCTS surgery as being reasonable and necessary.

Evidence to the contrary is the fact that two EMG/NCV studies were normal and the testimony and reports of Dr. RP, who is quite adamant that the claimant does not even have BCTS because the EMG/NCV testing, which he characterizes as the "gold standard" for objective testing for CTS, was negative. Dr. RP testified that Phalen's and Tinel's testing can frequently show false positives, are unreliable, and are based on subjective complaints. Dr. RP's position is supported by Dr. H, who in a report of April 27, 1999, states that the claimant does not meet the criteria to support a diagnosis of CTS and suggests further conservative treatment.

The hearing officer, in her Statement of the Evidence, comments:

> Without going into an in depth analysis of the voluminous medical records, the evidence is sufficient, although conflicting among different doctors, to establish that the Claimant has a diagnosis of [BCTS] and that this diagnosed condition is a result of the _____ bilateral wrist injury and not a continuation of the _____, cervical spine injury.

The evidence is conflicting and it is the hearing officer, as the sole judge of the weight and credibility of the evidence (Section 410.165(a)), who 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.). 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 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.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Judge/Manager