APPEAL NO. 011462
FILED JULY 31, 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 was held on January 11, 2001, and continued on May 16, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury in the form of an occupational disease on _____, and that she had disability from August 30, 2000, through October 30, 2000. The appellant (self-insured employer) filed a request for review asserting that the hearing officer erred in determining that the claimant sustained a compensable injury as a result of repetitive work. The claimant urges affirmance.

DECISION

Affirmed.

The self-insured employer asserts on appeal that the claimant did not sustain a compensable injury in the form of a repetitive work-related occupational disease. Section 401.011(34) provides that an occupational disease means a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. The term includes a disease or infection that naturally results from the work-related disease. The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease. Section 401.011(36) provides that a repetitive trauma injury means damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment.

The claimant was employed as a cook by the self-insured employer. The evidence in the record that the claimant had to mix potatoes by hand when the large mixing machine was broken for a month supports the hearing officer's determination that the claimant engaged in repetitive work that resulted in a compensable injury in the form of an occupational disease.

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. Section 410.165(a). 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). We will reverse the factual determinations of a hearing officer only if those determinations are so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge