APPEAL NO. 011570
FILED AUGUST 23, 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 June 13, 2001. The hearing officer held that the respondent (claimant) sustained a repetitive trauma injury (carpal tunnel syndrome (CTS)), with a date of injury of _____, and that she gave timely notice of her injury to her employer.

The carrier has appealed, arguing that the claimant's job was neither sufficiently repetitive nor traumatic to have caused CTS. The carrier argues that factors outside of the claimant's work were the cause of the CTS. There is no response from the claimant.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in any of the appealed findings, all of which are supported by the record. Although the carrier argues that the claimant "agreed" that her keyboarding amounted to no more than one and one-half hours per day, she in fact disagreed with her supervisor's testimony, pointing out that keyboarding was done not just during client interviews but at other times too. The claimant also explained how she initially attributed her arm pain to a 1998 neck and shoulder injury for which she was still being treated, and it was not until the Christmas holidays in 2000 that her children suggested to her that her pain could be work related. The claimant freely discussed some of the activities of daily living she undertook. Medical evidence attributes her problems to her work activities, or aggravation thereby.

In short, there was some conflicting evidence and considerable conflicting argument in the record before the hearing officer. A claimant's testimony alone may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.-Houston [1st Dist.] 1987, no writ).
The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). A carrier that wishes to assert that a preexisting condition is the sole cause of an incapacity has the burden of proving this. Texas Employers Insurance Association v. Page, 553 S.W.2d 98, 100 (Tex. 1977); Texas Workers' Compensation Commission Appeal No. 92068, decided April 6, 1992.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We do not agree that this was the case here, and affirm the decision and order.

The hearing officer's decision and order are affirmed.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge