

APPEAL NO. 011695
FILED SEPTEMBER 5, 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 June 27, 2001. With regard to the issues before her, the hearing officer determined that the respondent (claimant herein) sustained a compensable repetitive trauma injury in the form of bilateral carpal tunnel syndrome (CTS) with a date of injury of _____, and that the claimant had disability from February 2, 2001, continuing through the date of the CCH. The appellant (carrier herein) files a request for review arguing that the evidence did not support the hearing officer's finding of injury and that absent injury the claimant could not have disability. The claimant responds that the decision of the hearing officer was supported by the evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The hearing officer summarizes the evidence in her decision. This includes the fact that the claimant testified that he worked as a "breast sander" which required him to take boot heels from boxes, sand the heel, and then place the heel in another box. The claimant testified that he performed this work eight hours per day five days per week and he sanded approximately 1500 pounds per shift. Although an EMG was negative for CTS, the claimant was diagnosed with bilateral CTS and in fact one doctor characterized the claimant's CTS as the most severe case of CTS that he had ever treated.

Compensable Injury

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that his bilateral CTS, arose out of and occurred in the course and scope of his employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the claimant's testimony and the treating doctor's reports, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Disability

The hearing officer did not err in determining that the claimant had disability from February 2, 2001, continuing through the date of the CCH. The carrier's challenge to the hearing officer's disability determination is premised 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 hearing officer's disability determination.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C. T. CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TX 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge