

APPEAL NO. 011710
FILED AUGUST 28, 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 20, 2001. The hearing officer determined that the compensable injury of the appellant (claimant) did not extend to include ganglion cysts of the left hand, left carpal tunnel syndrome, or left ulnar entrapment at the elbow. The hearing officer also determined that claimant did not have disability. Claimant appealed these determinations on sufficiency grounds. Claimant also contended that the hearing officer abused her discretion in admitting certain evidence. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not 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, 176 (Tex. 1986).

Regarding the admission of the testimony from Dr. P, Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)) requires that no later than 15 days after the benefit review conference (BRC), parties shall exchange with one another the identity and location of any witness known to have knowledge of relevant facts. The BRC was on May 16, 2001, and carrier asserted that Dr. P's name was exchanged on May 24, 2001. Therefore, we perceive no abuse of discretion in the admission of Dr. P's testimony. Claimant also complains that the hearing officer abused her discretion in admitting Dr. P's report because it was not timely exchanged. However, Dr. P testified to essentially the same matters contained in his report. Therefore, even if there was error in the admission of this report, any error was harmless as it was cumulative of other evidence that was properly admitted. See Texas Workers' Compensation Commission Appeal No. 92241, decided July 28, 1992. Claimant complained that Dr. P did not examine him. However, this goes to the weight to be given to the evidence from Dr. P, and not its admissibility. We perceive no error in this regard.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ST. PAUL GUARDIAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge