

APPEAL NO. 011915
FILED OCTOBER 1, 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 July 23, 2001. With regard to the only issue before him, the hearing officer determined that the appellant's (claimant) compensable (right elbow) injury does not include any other body part.

The claimant appeals, contending that he also sustained injuries to his right wrist; right shoulder; cervical, thoracic, and lumbar spine; head; and chest in the compensable accident. The respondent (self-insured) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that on _____, the claimant was involved in a compensable motor vehicle accident when the vehicle he was riding in was struck in the left front by another vehicle. In evidence are photographs of the claimant's damaged vehicle. The claimant was seen in a hospital emergency room (ER) the same evening. The ER records reference only a right elbow injury. The claimant was referred to Dr. D, an orthopedic specialist specializing in shoulder, elbow, and hand injuries. Dr. D saw the claimant on February 1, 2001, and references only a right elbow injury. Subsequently, the claimant's attorney referred the claimant to Dr. W, a chiropractor, who, in a report dated February 2, 2001, references complaints of pain on a 10 out of 10 pain scale to the claimant's right elbow, right shoulder, and cervical, thoracic, and lumbar spinal regions. A self-insured required medical examination doctor, in a report dated May 4, 2001, while noting Dr. W's reports, has an impression of right elbow contusion without fracture, with electrodiagnostic evidence of cubital tunnel syndrome. The hearing officer, in his Statement of the Evidence, comments:

It is hard to see how Claimant's alleged back pain, for example, could escape the notice of the ER personnel and of an orthopedic surgeon, then be documented as 10/10 by [Dr. W]. Claimant's testimony concerning the extent of the claimed injury was inconsistent with a lot of the medical evidence and to some extent within itself and was not credible.

The claimant, in his appeal, states "where an injury is clearly evident by the medical evidence, the court decisions and Appeal Panel decisions give presumptive weight to the Claimant's description of how the injury occurred." The claimant does not give a citation for that proposition, but even if accurate, we would not give "presumptive weight" to the claimant's testimony on extent of injury where there is conflicting medical evidence on the point.

The hearing officer weighed the credibility of the evidence, and his determination on the disputed issue is 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).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CITY OF DALLAS** and the name and address of its registered agent for service of process is

**LESLIE CHERRY
1340 EAST 7TH STREET, SUITE 101
ODESSA, TEXAS 79761-4720.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge