

APPEAL NO. 011934
FILED OCTOBER 3, 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 19, 2001. He held that various conditions that the appellant (claimant) sought to link to his compensable electric shock injury of _____, were not proved to be related to that injury. The hearing officer found that the claimant's injury was in the nature of a burn to his left forefinger and thumb, and that he did not have disability due to this injury.

The claimant has appealed, arguing that he proved that he had various conditions related to his injury and that he was unable to work as a result. There was no response filed by the respondent (carrier).

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant failed to prove the relationship between his injury and headaches, bowel and bladder dysfunction, hearing loss, loss of memory, depression with panic attacks, hypertension, blurred vision, bilateral upper extremity paresthesia, neurocognitive deficit, and insomnia. The claimant was very articulate in presenting his case, only occasionally forgetting dates of occurrences over a year ago. He touched a brittle wire at work, which shocked him but immediately caused a breaker to turn off the current. The claimant estimated that the voltage to which he was briefly exposed was 277 volts. He testified that he had worked a few days and wanted to continue working after his accident, but was unable to do so because the employer told him on May 25th that they could not use him. He testified about trying to return to work twice since then. He said that he currently wanted to return to work but his prior attorney advised him against this until the dispute was resolved.

The claimant had been jailed at least once following his accident, and it appears that he first began pursuing treatment for emotional problems upon his release in August 2000. The claimant contended that all of his conditions had either improved or resolved, except for his anxiety and depression. The psychologist for the claimant, Dr. W, was supportive of the claimant's contention, although he stated that he was not aware of the voltage involved in the occurrence or of any past history of drug abuse. The claimant said that a brain scan was normal; Dr. W said that this would not necessarily be inconsistent with depression and cognitive deficits.

The claimant produced other medical evidence in favor of a link between depression and cognitive deficits and his accident. The carrier produced an opinion from a peer review psychiatrist, who had reviewed the claimant's test results and said that his findings were consistent with those in the general population. A doctor for the carrier who examined the claimant found no neurological impairment, and said that most of the claimant's complaints

were emotional in nature, perhaps necessitating further psychiatric evaluation.

The burden is on the claimant to prove that an injury occurred within the course and scope of employment. Service Lloyds Insurance Co. v. Martin, 855 S.W.2d 816 (Tex. App.-Dallas 1993, no writ); Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977). A trier of fact is not required to accept a claimant's testimony at face value, even if not specifically contradicted by other evidence. Bullard v. Universal Underwriters Insurance Company, 609 S.W.2d 621 (Tex. Civ. App.-Amarillo 1980, 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 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 cannot agree that this was the case here, and affirm the decision and order.

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

**JOSEPH YURKOVICH
1431 GREENWAY DRIVE, SUITE 450
IRVING, TEXAS 75038.**

Susan M. Kelley
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge