

APPEAL NO. 012029  
FILED OCTOBER 9, 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 July 23, 2001. Three cases involving this appellant (claimant) were combined into two CCHs held on the same day, and the hearing officer issued three separate decisions. The first CCH related to an alleged back injury and was conducted separately. The second CCH combined issues, as explained below. The claimant timely submitted an appeal addressing the case which pertained to his left upper extremity, specifically listing Docket No. 1. The respondent (carrier) responded, taking the position that the claimant erroneously listed the docket no. as 1, when his appeal addressed Docket No. 2 (now 2). We disagree. Under the circumstances, we hold that the claimant's appeal actually addresses the issues decided in both of those cases. Docket No. 1 had an issue of whether the claimant had a compensable injury to his left upper extremity in the form of an occupational disease. Docket No. 2 (now Docket No. 2) had an issue of whether the claimant's compensable injury (repetitive trauma injury to his right hand and wrist) extended to and included a left wrist injury (carpal tunnel syndrome). The claimant stated that he is "appealing this case because the severe pain that I currently have on my left arm, left hand and left wrist was caused by an injury at [employer]." Since these two cases were combined in one CCH, the claimant could understandably be confused about procedural requirements, and we will resolve any doubt in the claimant's favor and treat this as an appeal of both cases. With respect to the disputed issue in this case (Docket 1), the hearing officer determined that the claimant did not sustain a compensable injury in the form of an occupational disease (repetitive trauma to his left upper extremity) due to his work activities from April 19, 2000, until he voluntarily resigned on December 5, 2000. The carrier responded, urging affirmance. The hearing officer's determinations that the claimant timely reported his claimed injury and that the carrier did contest compensability in accordance with Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.2 (Rule 124.2), have not been appealed.

DECISION

Affirmed.

An "occupational disease" is "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury." Section 401.011(34). An employee must prove, by a preponderance of the evidence, the compensability of an occupational disease. Texas Workers' Compensation Commission Appeal No. 960582, decided May 2, 1996, citing Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980). The claimant sustained a repetitive trauma injury to his right hand and wrist on \_\_\_\_\_. While the claimant attended numerous medical appointments for his right hand and wrist, the hearing officer notes that it was not until April 19, 2000, that the claimant ever mentioned a problem with his left arm. The hearing officer also noted that the medical

records indicated “a great deal of functional overlay.” It is obvious that the hearing officer did not find the claimant to be a particularly credible witness.

The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the medical evidence and judges the weight to be given to expert medical testimony. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer, as fact finder, may believe all, part, or none of the testimony of any witness. The testimony of a claimant as an interested party only raises an issue of fact for the hearing officer to resolve. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer’s decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust, and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer’s decision and order are affirmed.

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

**C.T. CORPORATION SYSTEM  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge