

APPEAL NO. 012217  
FILED OCTOBER 17, 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 August 22, 2001. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease and that the claimant did not have disability. The claimant appeals, arguing that the evidence presented at the CCH was sufficient to show that she was injured at work by the chemicals. The respondent (carrier) replies, urging that the fact findings and conclusions asserted as erroneous by the claimant are supported by sufficient evidence.

DECISION

Affirmed.

The claimant testified that she had worked as a cook in the dietary department of a hospital (employer) for 13 years; that her job duties included both cooking and cleaning; and that she began having breathing difficulties two years after she started using certain chemicals for cleaning. The claimant further testified that she experienced symptoms at times when she was not working. Additionally, both documentary evidence and testimony reflect that the claimant was diagnosed with asthmatic bronchitis on \_\_\_\_\_.

The claimant had the burden to prove by a preponderance of the evidence that she sustained the claimed occupational disease injury. Aggravation of a preexisting condition on the job can constitute a compensable injury. Texas Workers' Compensation Commission Appeal No. 91039, decided November 15, 1991. The definition of occupational disease excludes an ordinary disease of life to which the public is exposed outside of employment. Section 401.011(34). The Appeals Panel has required that the necessary proof of causation be established to a reasonable medical probability by expert evidence in cases such as the one we here consider where the subject matter is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Texas Workers' Compensation Commission Appeal No. 93774, decided October 15, 1993; Texas Workers' Compensation Commission Appeal No. 94815, decided August 4, 1994. See also Schaeffer v. Texas Employers Insurance Association, 612 S.W.2d 199 (Tex. 1980).

Whether the claimant sustained the occupational disease injuries she alleged was a question of fact for the hearing officer to resolve. 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, is to resolve 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). As an appellate reviewing body, the Appeals Panel will not disturb the challenged findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly

unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **RCH PROTECT CO-OP** and the name and address of its registered agent for service of process is

**STUART R. STANGER  
1001 EAST SOUTHEAST LOOP 323, SUITE 150  
TYLER, TEXAS 75713.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Robert W. Potts  
Appeals Judge