

APPEAL NO. 012303
FILED NOVEMBER 14, 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 28, 2001. The hearing officer determined that the respondent's (claimant) _____, compensable injury does include bilateral carpal tunnel syndrome (CTS) after May 26, 2000; that the claimant had disability from May 17, 2000, continuing through May 22, 2000, and from May 27, 2000, continuing through the date of the CCH; and that the claimant did not sustain a repetitive trauma injury with a date of injury of May 26, 2000. The effect of these determinations was that the appellant (carrier 1) is liable for medical and income benefits and the respondent (carrier 2) is not liable for any benefits. Carrier 1 has appealed only the disability determination, and does so on sufficiency of the evidence grounds. Carrier 2 has not appealed. The claimant filed a response to the appeal, urging affirmance of the disability determination. The determinations that the claimant's _____, compensable injury does include bilateral CTS after May 26, 2000, and that the claimant did not sustain a repetitive trauma injury with a date of injury of _____, have not been appealed and have become final. Section 410.169.

DECISION

Affirmed.

"Disability" means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Whether disability exists for any period of time presents a question of fact for the hearing officer to decide and can be proved by the testimony of the claimant alone, if found credible. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. We have held that a compensable injury need only be a producing cause of the disability, not the only cause. Texas Workers' Compensation Commission Appeal No. 931117, decided January 21, 1994. Carrier 1 argues that the claimant's ability to prepare tax returns, become pregnant and give birth to a child, and attend college either part time or full time since January 2000, indicate that the claimant does not have disability. There is, however, evidence that no doctor has released the claimant to return to work since May 2000. In addition, even the carrier-selected required medical examination doctor, after a March 8, 2001, examination, provided the claimant with a work status report which indicated that the claimant's medical condition from her compensable injury "has prevented and still prevents the employee from returning to work" and "is expected to continue through 7/1/01."

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against

the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of carrier 1 is **AMERICAN PROTECTION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

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The true corporate name of carrier 2 is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

CONCUR IN THE RESULT:

Thomas A. Knapp
Appeals Judge