

APPEAL NO. 012314
NOVEMBER 19, 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 September 4, 2001. The hearing officer resolved the disputed issue by determining that the respondent (claimant) sustained a compensable injury to her neck in addition to the injury to her hands/wrists and shoulder on _____. The appellant (self-insured) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury to her neck in addition to the injury to her hands/wrists and shoulder. The claimant claimed a repetitive trauma injury from performing her work activities as an accounting clerk for the self-insured. By the way the disputed issue is framed, apparently the self-insured accepted a repetitive trauma injury to the claimant's hands/wrists and shoulder. The dispute centers on whether the claimant also sustained a compensable injury to her neck.

The claimant had the burden to prove the extent of her compensable injury. Texas Workers' Compensation Commission Appeal No. 962391, decided January 8, 1997. Section 401.011(16) defines "repetitive trauma injury" as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." With regard to the self-insured's assertions on appeal, in Texas Workers' Compensation Commission Appeal No. 91026, decided October 18, 1991, the Appeals Panel extensively reviewed Texas court cases concerning causation in occupational disease claims and stated: "Whether the issue of causation is framed in terms of the disease being indigenous to the work or present in an increased degree [citation omitted], as urged by appellant, or that the disease must be inherent in that type of employment [citation omitted], or but for the employment, would claimant have suffered the harm [citation omitted], what is required is evidence of probative force of a causal connection between the employment and occupational disease [citation omitted]." See also Texas Workers' Compensation Commission Appeal No. 961008, decided July 1, 1996, where the Appeals Panel discussed and considered Texas case law on repetitive trauma injuries and stated that "it is not required that it be proven the disease is inherent in or present in a greater degree when the evidence sufficiently proves that repetitive traumatic activities occurred on the job and there is a causal link between the activities and the harm or injury." In the instant case, there was conflicting evidence regarding the disputed issue. However, the claimant's testimony and the opinion of the claimant's treating doctor provided sufficient evidence to support the hearing officer's decision in favor of the claimant. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder

of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**WCI MANAGER
ADDRESS
(CITY), TEXAS (ZIP CODE).**

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge