

APPEAL NO. 012428
FILED NOVEMBER 27, 2001

Following a contested case hearing held on July 11, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the appellant's (claimant) compensable injury to his upper extremities does not extend to or include a cervical spine injury, a lumbar spine injury, or a ganglion cyst on his right wrist. The case was remanded for the production of certain information pertaining to the respondent (self-insured). Texas Workers' Compensation Commission Appeal No. 011815, decided September 13, 2001. No remand hearing was held, and the hearing officer issued a new Decision and Order with the same statement of the evidence, findings of fact, conclusions of law, and decision and order as was contained in the prior Decision and Order. The claimant has appealed the hearing officer's determination on evidentiary sufficiency grounds. The self-insured urges in response that the evidence is sufficient to support an affirmance.

DECISION

Affirmed.

The claimant testified that on _____, while employed at a state hospital, he was injured while transferring 16 patients from their beds to wheelchairs and back to bed again after a bomb scare. The parties stipulated that the claimant sustained a compensable injury to his upper extremities on that date. The claimant stated that although he also had neck and back pain after that incident, he refrained from voicing complaint to the self-insured about those parts of his body because he was concerned about his job and because he thought it was stress. He did not contend that any medical records reflected references to any neck and back injury before he moved to another city in April 2000 and began treating with another doctor who tried to investigate whether his cervical spine was producing his upper extremity symptoms. Nor did he disagree that his pain drawings made during physical therapy in June 2000 did not reflect the neck and back. The claimant also stated that he did not see the ganglion cyst before April 2000.

The claimant had the burden of proving with a preponderance of the evidence that his compensable injury did extend to include his cervical and spinal regions and ganglion cyst. 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, resolves the conflicts and inconsistencies 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 are satisfied that the challenged factual determinations of the hearing officer are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (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 **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
THE STATE OFFICE RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge