APPEAL NO. 020163
FILED MARCH 1, 2002

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 December 4, 2001. He determined (by implied finding) that the appellant (claimant) did not sustain an injury in the course and scope of employment, that she did not give timely notice of her injury to a supervisor of the employer, and that she did not have disability.

The claimant has appealed all determinations against her as against the great weight and preponderance of the evidence. The respondent (self-insured) responds that all findings have support in the record.

DECISION

We affirm the hearing officer's decision.

We would first note that the exhibits listed in the decision and order have been mislabeled. Those listed as the exhibits of the claimant are actually the self-insured's exhibits. Those listed as "carrier" exhibits are actually those of the claimant, but were admitted using alphabetical designation rather than numbers, and should have been listed as A through K. Finally, although a fact finding or conclusion of law was perhaps inadvertently omitted regarding whether the claimant sustained a compensable injury, we may imply such finding and conclusion from the discussion and the concluding paragraph.

It may be fairly stated that the scope of the claimant's injury, her date of injury, and theories of recovery were somewhat variable through the sessions of the CCH. For the most part, the claimant asserted repetitive trauma injuries to the neck, her hands, and perhaps the shoulder through the variety of activities she performed in dishwashing and food service at a school operated by the self-insured. She asserted that her date of injury was _____, when she said that work-related carpal tunnel syndrome (CTS) was diagnosed, although she agreed that she had received treatment in the fall of 2000 for neck and arm pain that she believed was arthritis. The claimant asserted that she reported her CTS injury on _____, to her supervisors, although she agreed she did not mention her neck. She told of two injuries in _____ and _____ when she was hit in the head with a basket carried by a coworker and when she later slipped and fell. Medical records show that she was treated in _____ for neck pain and in November 2000 for neck and arm pain and muscle spasms. A diagnosis of CTS is recorded in her treatment records on December 7, 2000.

The claimant answered interrogatories propounded by the self-insured and stated that on _____, she had pain after lifting a rack at work and the pain became worse until she sought treatment for it on _____.

Sua sponte, the hearing officer adjourned the second session of the CCH and

announced that he was appointing a certain named doctor to examine the claimant and report back to him, and he issued an interlocutory order for payment of income benefits until the CCH was reconvened. While objection was made at the time by the self-insured, neither party has appealed this procedure. The appointed doctor issued a report stating that he did not believe that the claimant's problems were related to or caused by her work.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). The record in this case presented conflicting evidence for the hearing officer to resolve. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer on any of the appealed issues are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge