

APPEAL NO. 022082
FILED OCTOBER 9, 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 was held on July 25, 2002. The hearing officer determined that the appellant's (claimant herein) compensable injury does not extend to her cervical spine or left elbow, and that the respondent (carrier herein) did not waive its right to contest the compensability of the claimed injury to these body parts. The hearing officer also concluded that the claimant's injury included an injury to her trapezius muscle, although not an injury to her left shoulder *per se*. The claimant appeals, arguing that the carrier did waive the compensability of an injury to the claimant's cervical spine, left elbow, and left shoulder. The claimant essentially argues that the hearing officer erred in relying on Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.3(c) (Rule 124.3(c)) because this rule is invalid because it is in conflict with Section 409.021(a). The carrier responds that this argument has been previously rejected by the Appeals Panel and that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The parties stipulated that on _____, the claimant sustained a compensable injury that included an injury to her left arm. There was conflicting evidence concerning whether the claimant's injury extended to the claimant's cervical spine, left elbow and left shoulder. The claimant argued that the carrier had waived the compensability of an injury to these areas because it had failed to timely dispute compensability. The hearing officer found that Rule 124.3(c) provided that the carrier was not required to contest the extent of the claimant's injury. The claimant argues that Rule 124.3(c) is in conflict with Section 409.021(a) which provides that if the carrier does not timely dispute the compensability of an injury, the carrier waives its right to dispute. The Appeals Panel has previously rejected this type of argument. See Texas Workers' Compensation Commission Appeal No. 002886, decided January 18, 2001; Texas Workers' Compensation Commission Appeal No. 002871, decided January 29, 2001. Based upon the reasoning in those decisions, we again reject the claimant's argument on the waiver issue. We also find sufficient evidence to support the hearing officer's resolution of the factual issue of the extent of the claimant's injury. See Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONNECTICUT INDEMNITY COMPANY** and the name and address of its registered agent for service of process is:

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge