APPEAL NO. 022380
FILED OCTOBER 24, 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 August 20, 2002. The hearing officer resolved the sole disputed issue by deciding that the respondent's (claimant) compensable injury of _____, included an injury consisting of bilateral carpal tunnel syndrome (CTS). The appellant (carrier) appealed, arguing that the claimant's last injurious exposure was with a different employer and thus a different carrier and alternatively argued that the claimant failed to show that she injured herself at the workplace. There was no response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, included an injury consisting of bilateral CTS. The claimant testified that she first injured her hands and wrists in _____, but that it got progressively worse over time, enough that she had to see another doctor in October 2001, who diagnosed the claimant with bilateral CTS and noted that it was as a result of her work duties as a data entry operator. The claimant also testified that she spent all of her worktime, sometimes 50 to 70 hours weekly, performing data entry at her computer. The Texas Workers' Compensation Commission appointed a required medical examination doctor, who also came to the conclusion that the claimant suffered from bilateral CTS as a result of her work. The hearing officer found that the claimant's job duties involved repetitive trauma activities.

The carrier attempted to add the issue, by "remanding" the case to the benefit review conference level, of whether it was the appropriate carrier for the appropriate employer for this claim. The hearing officer did not add the issue and the carrier does not complain of this evidentiary move on appeal.

Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of 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, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, 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). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight 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 Co., 715 S.W.2d 629, 635 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

_____
Margaret L. Turner
Appeals Judge