

APPEAL NO. 030245
FILED MARCH 12, 2003

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 January 3, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease as of _____, and that because the claimant did not sustain a compensable injury she could not have disability. The claimant appeals and the respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a bus driver, contends that she sustained a repetitive trauma injury pulling and pushing on an air brake knob some 50 times a day and that she began to feel pain in her right middle finger on _____. The hearing officer found no repetitive trauma injury. The claimant contends that one of the hearing officer's comments amounts to a finding that "the hearing officer did find that an injury was sustained." With respect to whether the claimant sustained a repetitive trauma type injury or a specific type injury, we note that the strict rules of pleading do not apply and alternative theories may be advanced if they are not contradictory or mutually exclusive. Texas Workers' Compensation Commission Appeal No. 951848, decided December 18, 1995; Texas Workers' Compensation Commission Appeal No. 001276, decided June 18, 2000. However, the hearing officer indicated that he did not find the claimant's evidence credible and, contrary to the claimant's contentions on appeal, did not find an injury to the right upper extremity. The hearing officer, in his Statement of the Evidence, merely commented that in his opinion claiming a "single-incident, discreet injury" might have been more credible.

Whether the claimant sustained a compensable injury and had disability are factual questions for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence and the hearing officer did not apply an incorrect standard or application of law.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **CLARENDON NATIONAL INSURANCE** and the name and address of its registered agent for service of process is

**UNITED STATES CORPORATION COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Roy L. Warren
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge