APPEAL NO. 030489
FILED APRIL 7, 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 27, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury in the nature of right carpal tunnel syndrome (CTS); right cubital tunnel syndrome (CuTS), and right epicondylitis, with a date of injury of _____; and that the claimant did not have disability. The appellant (carrier) appealed the hearing officer's determination that the claimant sustained a compensable injury and the claimant replied, urging affirmance. There is no appeal of the hearing officer's determination that the claimant has not had disability and that is now final. Section 410.169.

DECISION

Affirmed.

The carrier first contends that the great weight and preponderance of the evidence does not support a determination that the claimant's work caused a repetitive trauma injury in the nature of right CTS, right CuTS, and right epicondylitis. Alternatively, the carrier argues that if the evidence supports a finding that the claimant's CTS was caused by a compensable repetitive trauma injury, there is no evidence that this injury extends to and includes the right CuTS and right epicondylitis.

Section 401.011(36) defines repetitive trauma injury as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." To recover for an occupational disease of this type, one must not only prove that repetitious, physically traumatic activities occurred on the job, but also must prove that a causal link existed between these activities on the job and one's incapacity; that is, the disease must be inherent in that type of employment as compared with employment generally. Davis v. Employer's Insurance of Wausau, 694 S.W.2d 105 (Tex. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.). At a minimum, proof of a repetitive trauma injury should consist of some presentation of the duration, frequency, and nature of activities alleged to be traumatic. Texas Workers' Compensation Commission Appeal No. 960929, decided June 28, 1996. The hearing officer assessed the medical evidence; the amount of time the claimant spent entering data through a keyboard in a 40-hour work week; the length of time the claimant had worked in this capacity (24 years); that the claimant was right hand dominant; and that the claimant entered this data only with her right hand. He also considered that the claimant's left extremity was free of the injuries that limit the movements of her right extremity.

Whether the claimant sustained a compensable injury is a factual question 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 injury determinations and conclude that the hearing officer's decision is supported by sufficient evidence.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Roy L. Warren
Appeals Judge