

APPEAL NO. 031527
FILED AUGUST 5, 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 May 20, 2003. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury (DOI) of _____, and that she had disability beginning October 24, 2002, and continuing through the date of the hearing. The appellant (self-insured) appealed the hearing officer's determinations. The appeal file does not contain a response from the claimant

DECISION

Affirmed.

An occupational disease is "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body, including a repetitive trauma injury. . . . The term does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). An employee must prove, by a preponderance of the evidence, the compensability of an occupational disease. Texas Workers' Compensation Commission Appeal No. 960582, decided May 2, 1996, citing Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980).

The self-insured cites Texas Workers' Compensation Commission Appeal No. 961832, decided October 31, 1996, and other Appeals Panel decisions, to support its contention that the hearing officer did not make required findings of fact and conclusions of law concerning whether the claimant's carpal tunnel syndrome (CTS) is an occupational disease and whether the CTS is present to an increased degree in the work of the claimant as compared with employment generally. In Texas Workers' Compensation Commission Appeal No. 961008, decided July 1, 1996, the Appeals Panel held that "it is not required that it be proven the disease is inherent in or present in a greater degree when the evidence sufficiently proves that repetitive traumatic activities occurred on the job and there is a causal link between the activities and the harm or injury." The hearing officer was persuaded by the claimant's testimony and the medical records that "[o]n _____, Claimant sustained an injury diagnosed as right [CTS] due to repetitively using her hand to perform her job duties for Employer, as evidenced by records from [(Dr. B)], [(Dr. D)], and [(Dr. BI)]." The hearing officer could, and apparently did, find that the claimant established a casual link between the claimed occupational disease injury in the form of CTS and her work activities.

Injury and disability are questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section

410.165(a). There was conflicting evidence on the repetitive nature of the claimant's job. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his role as the fact finder in determining that the claimant sustained her burden of proof on those issues. Nothing in our review of the record indicates that the hearing officer's determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
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For service by mail the address is:

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Veronica Lopez-Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge