

APPEAL NO. 032312
FILED OCTOBER 21, 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 (CCH) was held on August 7, 2003. With regard to the two disputed issues before him the hearing officer determined that the respondent's (claimant) compensable injury includes bilateral carpal tunnel syndrome (BCTS) and that the claimant had disability from March 24 through May 4, 2003.

The appellant (carrier) appeals, contending that the hearing officer misapplied the Texas Workers' Compensation Commission rules, the Continental Casualty Company v. Downs, 81 S.W.3d 803 (Tex. 2002) decision, and Section 409.021, and that there was no evidence to establish a causal connection between the compensable injury and the BCTS. The carrier's appeal of the disability issue is premised on the fact that the BCTS was not compensable. The claimant responds, urging affirmance.

DECISION

Affirmed as reformed.

The carrier correctly points out that the Findings of Fact are misnumbered (there are three No. 3s). We reform the hearing officer's Findings of Fact to renumber the findings sequentially from 1 to 6.

On the merits, the claimant was involved in a compensable motor vehicle accident (MVA) on _____. A CCH was held with another hearing officer resolving the issues of carrier waiver, injury, disability, and the extent of the compensable injury by finding carrier waiver by not timely contesting compensability, a compensable injury "including [the] cervical spine, headaches, bilateral arms, bilateral wrists, lumbar spine and previously accepted bruised knee [emphasis added]," and a period of disability. Those determinations were appealed to the Appeals Panel which affirmed the hearing officer's Decision and Order in Texas Workers' Compensation Commission Appeal No. 030022, decided February 27, 2003. The parties stipulated that that case has been appealed to a state district court.

The issues in this case were:

1. Does the _____ compensable injury include bilateral carpal tunnel syndrome?
2. Did Claimant have disability beginning March 24, 2003 and continuing to May 5, 2003?

Much, if not most of the CCH, was spent regarding the MVA, and what the claimant may, or may not have told various doctors about this accident and other injuries which occurred 20 years ago. In view of the finding of the prior hearing officer (which was affirmed by the Appeals Panel) that the compensable injury included bilateral arm and bilateral wrist injuries the hearing officer correctly defined the issue before him as to “whether or not an injury to the wrist is now a proper diagnosis of [BCTS] . . . that has been found in the prior hearing.” When the parties argued the circumstances of the original MVA, the hearing officer reminded them “we have a wrist injury. I can’t get around that. There’s a wrist injury.” The hearing officer determined that the wrist/arm injury as found by the prior hearing officer included the BCTS. That determination is supported by sufficient evidence (at least one doctor’s report), is not incorrect as a matter of law, and is not 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).

The claimant had right carpal tunnel release surgery and the disability period was for the time the claimant was recovering from surgery. The carrier’s appeal is based on the premise that the BCTS is not compensable. Having affirmed the hearing officer’s decision on extent of injury, we also affirm the disability period found by the hearing officer.

The hearing officer’s decision and order are affirmed as reformed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge