

APPEAL NO. 032631
FILED NOVEMBER 20, 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 September 4, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable repetitive trauma injury; that the claimant did not have disability; and that the claimed injury does not include the cervical spine reflex sympathetic dystrophy.

The claimant appeals, basically on sufficiency of the evidence grounds, citing the reports of several doctors. The carrier responds, urging affirmance.

DECISION

Affirmed.

The claimant testified that she sustained a repetitive trauma injury to her right upper extremity after working two to three months rebuilding automotive starters. The claimant testified in some detail about the mechanics of her job. The claimant had had another compensable injury in 1998 involving allegations of bilateral upper extremity injuries. How similar those injuries were to the present claimed injury is in dispute. The claimant, fairly clearly, relies on the reports of the carrier's required medical examination (RME) doctor to support her position, however, equally clearly, the RME doctor relies on the claimant's medical history in his report. The RME doctor, in a subsequent report, clarified that "[i]t is only because the patient tells me the work aggravated her symptoms only after working at [employer] that I would say they are related to [employer]." The hearing officer commented that the claimant's inaccurate history "negated the medical opinions upon which she relied."

In any event, the medical evidence can be interpreted differently and it is the hearing officer that is the sole judge of the weight and credibility of the evidence. Section 410.165(a). This applies equally to medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In that we are affirming the hearing officer's determination that the claimant did not sustain a compensable injury, the claimant cannot, by definition in Section 401.011(16), have disability. Likewise, we also affirm the hearing officer's determination on the extent-of-injury issue.

The hearing officer's decision and order are affirmed.

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

**LEO MALO
ZURICH NORTH AMERICA
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge