APPEAL NO. 032782
FILED DECEMBER 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 September 19, 2003. The hearing officer determined that the respondent's (claimant) _____, compensable injury extends to and includes carpal tunnel syndrome (CTS) in both wrists. The appellant (carrier) appeals this determination and argues that the claimant's last injurious exposure occurred while she was working for a different employer. The appeal file contains no response from the claimant.

DECISION

Affirmed.

Extent of injury is a factual question for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). Nothing in our review of the record indicates that hearing officer's decision is 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).

Section 406.031(b) provides that the employer in whose employ the employee was last injuriously exposed to the hazards of the disease is considered to be the employer of the employee. The carrier asserts that the hearing officer erred by not applying Section 406.031(b) and finding that the CTS occurred after the claimant left the employ of the carrier's insured and subsequently began working for a different employer. The hearing officer was obviously not persuaded by the evidence that the claimant was injuriously exposed with regard to the CTS at her subsequent place of employment. We note that there was essentially no evidence developed at the hearing explaining the claimant's duties for the subsequent employer. The fact that the actual CTS diagnosis was made when the claimant was working for the subsequent employer does not mandate a finding that the last injurious exposure occurred during that period of employment. We cannot agree that by not finding in the carrier's favor with regard to last injurious exposure, the hearing officer failed to apply Section 406.031(b).

The hearing officer's decision and order are affirmed.

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

CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Chris Cowan
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Edward Vilano
Appeals Judge