APPEAL NO. 032947
FILED JANUARY 2, 2004

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 October 10, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury in the nature of bilateral carpal tunnel syndrome (CTS); that the date of the claimed injury is _____; that the claimant timely notified his employer of his claimed injury; and that the claimant has not had disability. The claimant appeals the hearing officer's determinations that he did not sustain a compensable repetitive trauma injury in the nature of bilateral CTS and that he has not had disability. The respondent (carrier) requests affirmance. There is no appeal of the hearing officer's determinations on the issues of the date of injury or timely notice of injury to the employer.

DECISION

Affirmed.

The claimant contends that he sustained a repetitive trauma injury in the nature of bilateral CTS as a result of performing his work activities as a waiter for the employer, and that he has had disability. The claimant had the burden to prove that he sustained a repetitive trauma injury as defined by Section 401.011(36) and that he had disability as defined by Section 401.011(16). The claimant testified regarding his work activities as well as the work activities of those who assisted him. Written descriptions of the claimant's work activities were also in evidence, as was the treating doctor's opinion on causation. The hearing officer was not persuaded that the claimant's bilateral CTS resulted from repetitious, physically traumatic work activities, because he found that the claimant's work activities were neither sufficiently repetitive, nor traumatic, to be a producing cause of his bilateral CTS. The evidence reflected that most of the heavy lifting and carrying of items at the restaurant where the claimant worked as a waiter/server was done by the runners and assistant servers. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's determination that the claimant did not sustain a compensable repetitive trauma injury in the nature of bilateral CTS 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 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

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

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

_____
Robert W. Potts
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Margaret L. Turner
Appeals Judge