

APPEAL NO. 032999  
FILED JANUARY 7, 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 17, 2003. The hearing officer determined that the appellant's (claimant) compensable (bilateral hand) injury of \_\_\_\_\_, does not include or extend to carpal tunnel syndrome (CTS) of either or both wrists, and that the claimant reached maximum medical improvement (MMI) on February 27, 2003, with a 5% impairment rating (IR).

The claimant appeals the adverse determinations, contending that the mechanism of the injury, the medical evidence, and the absence of other factors shows that the claimant sustained a bilateral CTS injury and that she reached MMI on June 26, 2003, with a 15% IR as assessed by a designated doctor in an amended report and that the amended report is entitled to presumptive weight. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. It is relatively undisputed that the claimant sustained a bilateral crush injury to both hands when the safety door of a machine closed on her hands just behind the knuckles. How long the claimant's hands were caught in the door and how much "thrashing around" was done was in dispute. After a supervisor disconnected the air hose to the machine releasing the claimant's hands, the claimant was taken to an emergency room where swelling and bruising was noted but x-rays ruled out any fracture. The claimant testified, and the medical records support, that the claimant began complaining of wrist pain about two weeks later or on December 16, 2002. The hearing officer summarized the medical treatment and reports in some detail in his Statement of the Evidence. An EMG was performed on February 4, 2003, and showed "[b]ilateral mild [CTS] with no active denervation." The claimant testified that her hand and wrist pain grew progressively worse. Subsequently Dr. F was appointed as the Texas Workers' Compensation Commission (Commission)-selected designated doctor.

In a report dated February 27, 2003, Dr. F examined the claimant using the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) and certified MMI on that date with a 5% IR based on loss of range of motion (ROM) of both hands/wrists (5% impairment of the left, 3% impairment of the right, combined for a 5% IR). Dr. F remarked:

it would appear that she suffered some contusions to the bilateral hands, dorsum mainly, and that she has had physical therapy for this. Although she continues to be symptomatic, I see no indication for any surgical intervention. The EMG studies as such, are weakly positive for [CTS], which I do not think would be associated with the mode of injury.

Nonetheless the claimant was referred to Dr. W, who in progress notes beginning on March 17, 2003, recites a history of “a door fell across the backs of bilateral wrist.” Dr. W recommended and performed a left CTS release on April 15, 2003, which by all accounts was unsuccessful. The claimant declined surgery to the right wrist.

After the left wrist surgery the records were sent to Dr. F, who elected to reevaluate the claimant, which he did on June 26, 2003. In a report of that date Dr. F reviewed his prior report, certified a new MMI date of June 26, 2003, and assessed a 15% IR. The IR was based on an 18% impairment for the left upper extremity (UE) or 11% whole person impairment combined with a 5% whole person impairment for the right UE combined for the 15% IR. The carrier, through the Commission, asked Dr. F to comment on his IR if bilateral CTS were not part of the compensable injury. Dr. F replied that CTS “as such, carries no specific [IR]” and that his rating was for loss of ROM. Dr. F goes on to state that:

I do wish to point out that if [CTS] is not the compensable [sic] injury, then the medical records that were provided to me apparently were for some other patient or injury, since all of the records did indicate this diagnosis; and in fact, I had previously assessed this claimant on behalf of the commission in the form of a [designated doctor examination] on 02-27-03 for the same diagnosis for the same date of injury. The only reason, apparently, that I saw her again was because the other wrist had become part of the compensable [sic] as to my understanding.

The hearing officer commented that Dr. F’s amended report is entitled to presumptive weight only in the event that it was determined that the claimant’s CTS is part of the compensable injury. The claimant offered a report dated August 7, 2003, from Dr. W as establishing causation of the bilateral CTS. In that report Dr. W again recites a history of a door falling across the claimant’s “bilateral wrist at work” and concluded:

A crush injury across the wrist can certainly cause a traumatic [CTS]. Any injury that may cause swelling of the tendon or ligament of the carpal tunnel may result in [CTS].

The hearing officer commented on the reports of Dr. F and Dr. W stating:

The claimant asserts that [Dr. W’s] statement that “any injury that may cause swelling” can cause [CTS] brings the injury in this case within the ambit of the foregoing opinion. The hearing officer, however, has been unable to find any documentation in the medical records of swelling of the

tendon or ligament of the carpal tunnel. There was swelling of the dorsal aspect of the claimant's hand, but the carpal tunnel is not located at the site of the swelling. Contrary to [Dr. W's] information, there was no blow to the wrist.

[Dr. W's] opinion that the claimant's [CTS] is a result of the compensable injury is based upon inaccurate information and is not credible. [Dr. F's] statements that the claimant had been diagnosed with bilateral carpal tunnel and that the [CTS] was, therefore, part of the compensable injury is also inaccurate. The preponderance of the credible evidence fails to establish that the claimant's bilateral [CTS] is, within reasonable medical probability, a naturally flowing result of the blow to the backs of the claimant's hands.

Whether the claimant's CTS was caused by the compensable injury was a factual determination for the hearing officer to resolve. The hearing officer resolved the issue, finding insufficient medical evidence that a blow to the dorsal aspect of the hands caused the claimed bilateral CTS and that if the CTS is not compensable, Dr. F's amended report is contrary to the great weight of other medical evidence.

Pursuant to Sections 408.122(c) and 408.125(c) the report of the designated doctor has presumptive weight and pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) the response from a designated doctor to a request for clarification from the Commission is also considered to have presumptive weight. The Appeals Panel has frequently held that the designated doctor's report should not be rejected absent a substantial basis for doing so and that whenever a hearing officer rejects a designated doctor's report, the hearing officer should "clearly detail the evidence relevant to his or her consideration." Texas Workers' Compensation Commission Appeal No. 030091-s, decided March 5, 2003. We believe the hearing officer has done so in this case by finding that the compensable injury was to the dorsal portion of the claimant's hand. The hearing officer's determination is supported by Dr. F's original February 27, 2003, report.

We conclude that the hearing officer's determinations are not incorrect as a matter of law and are 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).

We affirm the hearing officer's decision and order.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Chris Cowan  
Appeals Judge