

APPEAL NO. 040434
FILED APRIL 8, 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 (CCH) was held on February 11, 2004. The hearing officer determined that the respondent's (claimant) compensable injury of _____, does include bilateral carpal tunnel syndrome (CTS). The appellant (self-insured) appealed, arguing that the hearing officer's determination is against the great weight and preponderance of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant attached documents that were offered and admitted at the CCH, and other documents that were submitted for the first time on appeal. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the new evidence offered is not so material that it would probably produce a different result, nor is it shown that the documents could not have been obtained prior to the hearing below. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

It is undisputed that the self-insured has accepted a _____, compensable repetitive trauma injury in the form of a right trigger thumb injury. The self-insured argues that the claimant's compensable injury does not extend to include bilateral CTS. The self-insured argues that the claimant "failed to show how the condition was more likely to occur in her employment" compared to "employment generally or the general public." In Texas Workers' Compensation Commission Appeal No. 961008, decided July 1, 1996, the Appeals Panel held that "it is not required that it be proven the disease is inherent in or present in a greater degree when the evidence sufficiently proves that repetitive traumatic activities occurred on the job and there is a causal link between the activities and the harm or injury." In the present case, the hearing officer was persuaded by the claimant's testimony and her evidence that her repetitive job duties resulted in bilateral CTS. Additionally, the self-insured argues that the hearing officer failed to "identify specific evidence" to show a "causal relationship between the claimant's repetitive trauma injury and her use of a computer keyboard." The hearing officer commented in the Statement of the Evidence that the claimant established by a preponderance of the credible evidence that the compensable injury of _____, extends to and includes bilateral CTS. The hearing officer could find, and apparently found, that the claimant established a casual relationship between the claimed bilateral CTS and her work activities.

Extent of injury is a question of fact. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
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For service by mail the address is:

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AUSTIN, TEXAS 78711-3777.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge