

APPEAL NO. 041564  
FILED AUGUST 13, 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 May 28, 2004. The hearing officer determined that the respondent's (claimant) compensable injury of \_\_\_\_\_, includes an injury to the claimant's left shoulder.

The appellant (carrier) appeals, contending that initially there were no complaints of left shoulder pain and that the objective evidence only shows chronic degenerative changes. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that on \_\_\_\_\_, the claimant was working on a production line making koozies, the machine jammed and the claimant sustained a crush type injury to her left hand, fingers, and wrist trying to unjam the machine. The claimant testified that when the machine caught her hand she jerked her arm out of the machine injuring her left shoulder. The mechanics of the injury and how the machine would injure a worker were in dispute. Although the claimant testified that she had shoulder complaints the initial medical records do not support that testimony. The first reference to shoulder complaints is a report dated September 3, 2003, from the treating chiropractor. An MRI performed on October 7, 2003, indicated a partial tear of the supraspinatus tendon.

There was conflicting evidence regarding the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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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Daniel R. Barry  
Appeals Judge

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Edward Vilano  
Appeals Judge