

APPEAL NO. 041632  
FILED AUGUST 18, 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 June 24, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of \_\_\_\_\_.

The claimant appealed, contending that the medical records indicated that the claimant had bilateral carpal tunnel syndrome (CTS) and epicondylitis related to his work. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant, a heavy equipment mechanic asserted that he sustained a repetitive trauma injury (bilateral CTS and epicondylitis of the right elbow) disassembling and repairing a road paving machine, which required lifting large heavy parts. There was conflicting evidence whether the claimant had the claimed conditions and the cause of those conditions.

Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." The claimant claimed a repetitive trauma injury in the form of bilateral CTS and epicondylitis from performing his work as a heavy equipment mechanic. The claimant had the burden to prove that he sustained a repetitive trauma injury during the course and scope of his employment. Davis v. Employers Insurance of Wausau, 694 S.W.2d 105 (Tex. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.). Conflicting evidence was presented at the CCH with regard to the issue of whether the claimant sustained an occupational disease. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determination that the claimant did not sustain a compensable repetitive trauma injury 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**LEO MALO  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge