

APPEAL NO. 042259
FILED OCTOBER 11, 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 August 6, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury, with a date of injury of _____; and that the claimed injury of _____, does not extend to include the MCP joint effusion, benign cyst or enchondroma with the third metacarpal head and chronic tendonitis of the right hand. The claimant has appealed the compensability and extent-of-injury determinations, arguing that the determinations are against the overwhelming evidence and should be reversed. The respondent 1 (carrier) has responded, arguing that there is sufficient evidence to support the challenged determinations. The appeal file does not contain a response from respondent 2 (subclaimant).

DECISION

Affirmed as reformed.

We reform the decision and order to correct the misspelling of metacarpal.

The hearing officer did not err in determining that the claimant did not have a traumatic repetitive compensable injury and that the alleged injury does not extend to include the MCP joint effusion, benign cyst or enchondroma with the third metacarpal head and chronic tendonitis of the right hand. The compensability and extent-of-injury issues present questions 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).

The hearing officer noted that the claimant failed to establish that the claimed injuries were caused by repetitive trauma due to her job duties; that no doctor credibly explained how shooting a glue gun would cause the claimant's alleged conditions or that the claimed injury would extend to include the MCP joint effusion, benign cyst or enchondroma with the third metacarpal head and chronic tendonitis of the right hand. In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 decision and order of the hearing officer as reformed.

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 F. MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251-2237.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge