

APPEAL NO. 93027

A contested case hearing was held in (city), Texas, on December 14, 1992, (hearing officer) presiding as hearing officer. The hearing was held under the provisions of the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. art 8308-1.01 *et seq.* (Vernon Supp. 1993) (1989 Act). The hearing officer determined that the appellant (claimant) was not entitled to temporary income benefits (TIBS) from the respondent (carrier) because no disability for a period of at least one week resulted from a back injury sustained on (date of injury). Finding fault with the statement of evidence, some findings of fact and conclusions of law, the claimant asks that the case be reversed and a new decision rendered or, alternatively, the case be reversed and remanded for another hearing. The carrier urges that the evidence supports the decision of the hearing officer and asks that the decision be affirmed.

DECISION

Finding the evidence sufficient to support the decision of the hearing officer and finding no error in his conduct of the hearing or in his Decision and Order, we affirm.

The hearing officer fairly and adequately set forth the evidence in his Decision and Order and is adopted for purposes of this decision. Claimant testified she was a registered nurse and sustained an on the job back injury with Employer on (date of injury). Claimant further testified her health care providers were a (Dr. C), (Dr. B), (Dr. M), and (Dr. H), Claimant stated she worked 40 hours per week at \$13.00 per hour for Employer. Claimant further stated she worked for Employer from (date of injury), through December 23, 1991, earning wages equivalent to the wages she was receiving prior to (date of injury). Claimant acknowledged Dr. M was her treating doctor and that he took Claimant off work from December 24, 1991, through December 29, 1991. Claimant further acknowledged Dr. M was the first health care provider who took her off work for the (date of injury), injury. Claimant confirmed Dr. M released her to return to work without restrictions on December 30, 1991. Claimant further confirmed she did not return to work for Employer on or subsequent to December 30, 1991. Claimant stated she last communicated with her Employer prior to December 30, 1991. Claimant further stated she was employed by (nursing home) on and subsequent to January 18, 1992, as a registered nurse and at the rate of \$16.00 per hour. Claimant further testified she sustained a knee injury on July 3, 1992, while working for nursing home. Claimant stated she was off work from July 7, 1992, until November 25, 1992, due to the injury sustained while working for nursing home. Dr. H stated in his medical report (Claimant's Exhibit 1) that Claimant "was trying to assist a combative patient when he kicked her real hard in the right knee. She got a fairly good bruise on the right knee and that was transferred to her low back. She started having a lot of low back and left leg pain. . ." Claimant confirmed she received compensation from nursing home's insurance carrier for the injury she sustained while working for nursing home. Claimant further confirmed she returned to work with nursing home on November 25, 1992.

The claimant objects to the following findings of fact and conclusions of law:

FINDINGS OF FACT

- No. 7. Claimant's treating doctor released Claimant to return to work without restrictions with Employer on December 30, 1991.
- No. 8. Claimant voluntarily did not return to work with Employer on or subsequent to December 30, 1991.
- No. 9. Claimant was employed by (nursing home) on and subsequent to January 18, 1992.
- No. 10. Claimant contended she sustained a right knee injury with (nursing home) on July 3, 1992.
- No. 11. Claimant's medical records indicated Claimant's subjective symptoms of back pain on July 6, 1992, was causally connected to Claimant's right knee injury Claimant contended she sustained on July 3, 1992, while on the job with (nursing home).

CONCLUSIONS OF LAW

- No. 3. Claimant had disability from December 24, 1991, through December 29, 1991, because of the on the job injury Claimant sustained with Employer on (date of injury).
- No. 4. Claimant did not have disability on or subsequent to December 30, 1991, as a result of the on the job injury sustained with Employer on (date of injury).
- No. 5. Claimant's disability, if any, on or subsequent to July 3, 1992, was the result of Claimant's on the job injury Claimant contended she sustained with (nursing home) on July 3, 1992.
- No. 6. Claimant's disability, if any, on or subsequent to July 3, 1992, was neither directly nor indirectly related to Claimant's employment with Employer.

We find no merit at all to the assertions of error by the claimant. Clearly, the evidence is sufficient to support the hearing officer's findings and conclusions. Indeed, there is only scant evidence contrary to the hearing officer's findings and conclusions and it is far from being the great weight and preponderance of the evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 92232, decided July 20, 1992; In Re Kings Estate, 244 S.W.2d 660 (Tex. 1951). Under the posture of this case, there is no sound basis for a determination of disability, as defined under the 1989 Act, or the entitlement to TIBS from this carrier. Accordingly, the decision is affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Lynda H. Nesenholtz
Appeals Judge

Thomas A. Knapp
Appeals Judge