

APPEAL NO. 93758

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act) (formerly V.A.C.S. art. 8308.101 *et seq.*), a contested case hearing was held in (city), Texas, on July 29, 1993, (hearing officer) presiding as hearing officer. She determined that the appellant (claimant) sustained a compensable injury only to her feet, back and neck, legs, face and nose, chest, stomach, and bladder, but that her injury did not extend to and include chronic fatigue syndrome, headaches, blood pressure, ulcer, depression, fever, nausea, diarrhea, dizziness, and vomiting. She further determined that the claimant had disability from June 2, 1992 to November 18, 1992. Claimant appeals, and as best we can determine, she asks that the Appeals Panel reverse and grant her "medical and lifetime income benefits which will include depression and headaches" which she urges are associated with her lumbar and neck strain which leads to body fatigue. The respondent (employer/carrier), as in previous appeals filed by the claimant, fails to respond.

DECISION

Finding no error on the part of the hearing officer and a sufficient evidentiary basis for her findings and conclusions, we affirm the decision.

This is the fifth of a series of appeals for injuries, some of which are the same or similar to those claimed in this case (albeit several separately asserted incidents) by the claimant. Texas Workers' Compensation Commission Appeal No. 92664, (unpublished) decided January 28, 1993; Texas Workers' Compensation Commission Appeal No. 92665, (unpublished) decided January 29, 1993; Texas Workers' Compensation Commission Appeal No. 92666, (unpublished) decided January 29, 1993; Texas Workers' Compensation Commission Appeal No. 93748, (unpublished) decided October 5, 1993. The decision under consideration here involved only injuries claimed to have been sustained on (date of injury), and arising out of an assault on the claimant by a student on a school bus (the claimant was employed as a school bus driver). The claimant testified that on (date of injury), she was assaulted on the school bus she was driving by an angry student. She states she sustained a reinjury to her neck and back (the original injury to the neck and back being the subject of another claim and having occurred as a result of a minor accident on (date), when the back wheel of the bus she was driving came into contact with a bumper of a parked car) as a result of the assault as well as injuries to her feet, bladder, face, and all over her body. She claims her feet were stomped and rather generally complains that she still suffers multiple symptoms as a result of this and other employment related incidents, including ulcers, depression, chronic fatigue syndrome, headaches, vomiting, diarrhea, and insomnia. She testified that there was great stress on the job because of various incidents, including other problems with her supervisors, students and coworkers (one of whom she alleges tried to run her down with a bus) and that this environment led to her many health problems. She continued work driving a bus until May 1, 1992, but apparently has not worked since that time. The claimant acknowledged that sometime later in May she talked to her employer about possibly returning to work.

The employer/carrier does not contest the assault incident and accepts liability on the back and neck (relating back to the (date) incident) and an injury to the feet on (date of injury). Medical records indicate the claimant underwent surgery on her feet in July 1992 for: Ingrown Toenail, Left and Right Hallux, Medial and Lateral Borders. There was also evidence that the claimant underwent physical therapy for her feet in October and November 1992. There was also some medical evidence that claimant's ongoing bladder condition related to the claimant's back injury. There was no probative evidence that the other injuries such as being hit in the stomach, legs, nose, face and chest were other than minor or resulted in the need for medical attention or other benefits.

The hearing officer, in discussing the claimed injuries, including "chronic fatigue syndrome, blood pressure problems, headaches, peptic ulcer, dizziness, fever, nausea and vomiting, diarrhea, and depression" noted that:

the evidence indicates that these conditions allegedly resulted from multiple events, including accidents subsequent to the incident of (date of injury). It further appears that these conditions were the result of repetitive mental stress, rather than the result the physical altercation of (date of injury).

The hearing officer went on to note that repetitive mental traumatic activity does not result in a compensable injury. We agree and have previously so held. Texas Workers' Compensation Commission Appeal No. 92210, decided June 29, 1992, and cases cited therein.

As indicated, the employer/carrier did not contest an injury to the feet resulting from the (date of injury) incident and has not appealed the hearing officer's decision. The hearing officer determined the injury to her feet, back and neck (aggravation), legs, face and nose, chest, stomach (not an ulcer), and bladder were compensable and ordered payment of reasonable and necessary medical expenses. The hearing officer also determined that the claimant had disability from June 2, 1992 to November 18, 1992, when the therapy following her foot surgery ended. There was no evidence that the other conditions she found compensable resulted in disability. Our review of the record prompts us to conclude this was a fair and reasonable determination by the hearing officer and that there is sufficient evidence to support her decision. Clearly, the hearing officer's decision was not so against the great weight and preponderance of the evidence as to be wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 92232, decided July 20, 1992. The decision is affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Lynda H. Nesenholtz
Appeals Judge