

APPEAL NO. 950030
FILED FEBRUARY 17, 1995

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), a contested case hearing was held on November 28, 1995. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, that he did not, without good cause, timely notify his employer of an injury, and that he did not have disability as defined in the 1989 Act. The claimant appeals urging that the great weight of the evidence is contrary to the hearing officer's determinations. No response has been filed on appeal.

DECISION

Affirmed.

The sequence of events is not entirely clear as developed in the record; however, the claimant indicated that he worked for the employer as an electrician for some 19 years and sustained an injury in 1989 which included the diagnosis of carpal tunnel syndrome (CTS). This 1989 injury resulted in a settlement sometime in September or October 1993 under the provisions of the prior law. The claimant's employment situation between 1989 and July 1993 was not specifically covered; however, he apparently was off work two weeks in July 1993 after which he was returned to full duty. The claimant testified that his work after July was more onerous than what it had been previously: this was denied through the testimony of his supervisor. In any event, before he returned to work and in a letter dated July 12, 1993, the claimant claimed to be disabled under the Americans With Disabilities Act stating his disabilities resulted from "on-the-job low back injuries in 1983 and 1986, on-the-job neck and shoulder injuries from 1989 and bilateral carpal tunnel syndrome resulting from the 1989 injury and on-the-job repetitive trauma." He testified that he experienced pain in his wrists at the time he went back to work and that it continued with the pain increasing up to the last day of his employment on _____. He apparently was terminated on that date for undisclosed reasons although he stated he did not stop working because of pain in his wrists. In any event, on February 24, 1994, he filed a notice of injury with the insurance representative indicating a date of injury of _____.

The hearing officer found that the claimant's current CTS is a continuation of the 1989 injury, that the claimant knew in July 1993 that his wrist pain was due to his work-related CTS and that he did not have good cause in failing to notify his employer not later than 30 days after the date of injury, and that he did not have disability. Clearly, there is sufficient evidence to support the hearing officer's determinations. Whether there is a new injury or a continuation of an old injury is a question of fact for the hearing officer's determination. Texas Workers' Compensation Commission Appeal No. 93317, decided June 4, 1993. And, a return to work does not automatically transfer an original injury into a

new injury when symptoms recur. Texas Workers' Compensation Commission Appeal No. 92463 decided October 14, 1992. Equally clear is that the great weight and preponderance of the evidence is not against the hearing officer's determinations. Thus, there is no basis to disturb her decision and order. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 92232, decided July 20, 1992.

Accordingly, the decision and order are affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Thomas A. Knapp
Appeals Judge