APPEAL NO. 990562

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). On February 12, 1999, a hearing on remand was held. Texas Workers' Compensation Commission Appeal No. 982596, decided December 21, 1998, had affirmed the determination that appellant (claimant) sustained a compensable occupational disease injury, but reversed and remanded the determination that notice to employer was timely given for further consideration and, if relevant, reference to evidence that supported timely notice. On remand the hearing officer determined that the claimant did not give timely notice and did not show good cause for late notice. Claimant asserts that he did give notice, pointing out that the company doctor examined his hands and referred him to Dr. Sa, that he told the dispatcher, and that he told his supervisor. The appeals file contains no reply from respondent (carrier).

DECISION

We affirm.

Claimant worked for (employer) driving a truck. Appeal No. 982596 contains more details of the facts surrounding this claim. The truck claimant drove did contain extra controls for lifting and dumping material, which claimant intermittently used. The evidence relating to whether there was a compensable repetitive trauma arm injury was conflicting but the determination at the initial hearing that the injury was compensable was not found to be against the great weight of the evidence.

Claimant's points raised on appeal were considered by the hearing officer. Briefly, while claimant accurately states that the company doctor referred him to Dr. Sa, claimant's testimony about that event indicates that the company doctor told him to see his own doctor, who is Dr. Sa, and claimant added that the company doctor thought he had arthritis in his hand. He also stated on cross-examination that when he went to the company doctor he had "no idea" whether his hand problem was related to driving a truck or "what it could be." Claimant saw Dr. Sa on _____.

The part of the testimony that was repeatedly addressed at the hearing involved what claimant told his supervisor after he saw Dr. L on September 30, 1997, and after he saw Dr. Sa on _____. Claimant said he had wrist braces on after seeing Dr. L and was asked at work by other employees whether he had been boxing, to which he said no. He told his supervisor, EL, that "they found carpal tunnel in my hand" and claimant said he had told EL before "about my hand hurting." He then said, "the dispatcher, she knows too." Claimant said that when he told EL, EL said that his mother has the same thing. Claimant also said that he brought the medical reports to the company doctor each time he saw a doctor.

While the carrier had appealed the date of injury found at the initial hearing of _____ (indicating it should be earlier), the date of injury found was not reversed

by Appeal No. 982596, and the appeal to the decision on remand does not address the date of injury. Other than claimant's testimony, the record does not show when certain medical records were received by employer or carrier. However, medical reports originating in September 1997 address pain and carpal tunnel syndrome as a possibility and refer to the need for testing. Dr. L on September 30, 1997, said that claimant had had hand numbness for four to six months, which testing showed to be carpal tunnel syndrome. Dr. L added, "worse with driving, wakes him up at night, pain and numbness throughout . . . ." He recommended splints. Dr. L also provided a short note on September 30, 1997, which did not take claimant off work but said he "must be able to work in braces." An October 30, 1997, note by Dr. L indicates that the symptoms have gotten worse and stated, "aggravated constantly at his work." At the initial hearing, the hearing officer had found that claimant gave notice of his injury to EL within 30 days of the date of injury.

The documents admitted at the initial hearing (no evidence was added at the hearing on remand) and the transcript of testimony at that hearing were incorporated into the record of the decision on remand. The record has been reviewed again; the determination at the hearing on remand that the claimant did not give the employer notice of a work-related injury within 30 days of the date of injury is sufficiently supported by the evidence. Similarly, the record does not disclose any basis for overturning the determination that good cause for late notice was not shown.

Finding that the decision and order are sufficiently supported by the evidence, we affirm. *See* In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

_____
Joe Sebesta
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Judy L. Stephens
Appeals Judge