

APPEAL NO. 990575

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On February 17, 1999, a hearing was held. He determined that the respondent (claimant) did not sustain a bilateral carpal tunnel syndrome (CTS) occupational disease but did sustain a right CTS occupational disease and had disability therefrom beginning May 2, 1998, through September 8, 1998. (The parties stipulated that the "date of the claimed injury is \_\_\_\_\_," and the hearing officer found \_\_\_\_\_, as the date claimant sustained the right CTS.) Appellant (city) only appeals the disability issue and only asserts error in regard to the period of disability found prior to the date of injury, and asks for reformation of the period of disability to show disability "from May 9th until September 8, 1998." The appeals file does not contain a reply from claimant.

DECISION

We affirm the decision as reformed.

This is a question of law with no appeal taken to the underlying determination that claimant sustained a compensable right CTS injury or to the validity of some period of disability. As stated, the date of injury was found to be \_\_\_\_\_, and that determination was not appealed. With that date of injury, disability was found to have begun on May 2, 1998. Texas Workers' Compensation Commission Appeal No. 950521, decided May 18, 1995, held that income benefits cannot begin prior to the date of injury. While disability is defined in relation to a compensable injury (see Section 401.011(16)), and it therefore appears questionable to assess disability prior to a date of injury, the real question concerns payment of temporary income benefits (TIBS). *Also see* Texas Workers' Compensation Commission Appeal No. 951667, decided November 21, 1995 which pointed out that even if disability would be found prior to a date of injury, no income benefits could be paid during that time.

That part of the decision found at the conclusion of the hearing officer's opinion which states, "[TIBS] are to be paid for all periods of disability until disability ends or maximum medical improvement [MMI] is reached" is reformed to read "TIBS will be paid beginning \_\_\_\_\_, through September 8, 1998, and for all periods of disability incurred on and after the date of injury until MMI is reached." As reformed, the decision found at the end of the hearing officer's opinion is affirmed.

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Joe Sebesta  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

Susan M. Kelley  
Appeals Judge