

APPEAL NO. 991212

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 11, 1999. He determined that the respondent (claimant) sustained a compensable right inguinal hernia injury on _____, with resulting disability from March 10 through April 19, 1999. The appellant (carrier) appeals these determinations, contending that they were against the great weight and preponderance of the evidence and that expert medical evidence was required to prove the causal connection between the hernia and work-related activities. The appeals file contains no response from the claimant.

DECISION

Affirmed.

The claimant testified that on _____, while pushing a pallet of compressors at work, he felt a burning sensation in his right groin area. This incident happened about 9:00 a.m. The claimant continued working until his shift ended that day and for the next five weeks. He first received medical care from Dr. H on February 15, 1999. In the report of this visit, Dr. H referred to pain since January 1999, recorded the claimant's history, and diagnosed a right inguinal hernia. The hernia was surgically repaired on March 10, 1999. The claimant did not work for the period from March 10 through April 19, 1999.

The claimant testified that his pain increased over time and he reported it to his supervisor on February 16, 1999. In a recorded telephone conversation with an adjuster, he said he experienced the pain when pushing a pallet of compressors, but could not recall which pallet it was. According to the written statement of Mr. J, presumably the claimant's supervisor, Mr. J said that the claimant told him he did not know how, when, or where the injury occurred and originally thought it may have been appendicitis.

The hearing officer found the claimant credible and determined that he sustained a hernia at work as claimed. The carrier does not dispute that he had a hernia, but argues that the claimant failed to prove his case because he continued working his normal duties for some 12 days after the claimed date of injury, that he was unable in the past to identify the date of injury, and that he lacked expert medical evidence to establish causation. The fact that the claimant worked for some period of time after his claimed injury and that in statements prior to the CCH the claimant indicated that he could not pinpoint the date of injury, went to the general credibility of the claimant's assertion at the CCH that he sustained his hernia injury at a specific time on _____. The carrier identified no authority for the proposition that expert evidence was required to prove causation in this case. In Texas Workers' Compensation Commission Appeal No. 92092, decided April 27, 1992, we affirmed a finding that the claimant did not sustain a compensable injury. In that case, the claimant was off work for approximately eight days before he experienced hernia symptoms and relied on repetitive trauma to prove his case. Given the delay in the onset of symptoms and the claimant's theory of repetitive trauma as the cause of the hernia, the

Appeals Panel required expert evidence. See *also* Texas Workers' Compensation Commission Appeal No. 961234, decided August 8, 1996, Texas Workers' Compensation Commission Appeal No. 950975, decided July 24, 1995, Texas Workers' Compensation Commission Appeal No. 94422, decided May 25, 1994, and Texas Workers' Compensation Commission Appeal No. 94396, decided May 13, 1994. We have not required expert medical evidence to prove causation of a claimed hernia injury where there is evidence of a prompt onset of symptoms, that is, pain or bulging, following a specific event. Texas Workers' Compensation Commission Appeal No. 93194, decided April 23, 1993. In this case, the claimant testified to an immediate onset of pain following a specific event of pushing a pallet of compressors. The hearing officer found him credible in these assertions, despite other evidence that he may not have been so clear in recalling the circumstances of the onset of pain. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we find the claimant's testimony, deemed credible by the hearing officer, sufficient to support his determination that the claimant sustained a compensable right inguinal hernia injury on _____.

The carrier appealed the disability finding to the extent that it argued there was no compensable injury. Having affirmed the finding of a compensable injury, we also affirm the finding of disability.

For the foregoing reasons, we affirm the decision and order of the hearing officer.

Alan C. Ernst
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Gary L. Kilgore
Appeals Judge