APPEAL NO. 991377

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On May 6, 1999, a contested case hearing (CCH) was held. He (hearing officer) determined that the respondent (claimant) sustained a compensable injury, that he timely reported his injury, and that he had disability. Appellant (carrier) appeals these determinations on sufficiency grounds. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends the hearing officer's determination that claimant sustained a compensable injury is not supported by sufficient evidence. Carrier asserts that claimant felt "the crick" on _____, at home; that claimant did not tell his doctors that his condition was work related; that claimant's neck problem was a mere "normal process of living"; andthat claimant did not tell his supervisors that his "crick" was work related.

The claimant in a workers' compensation case has the burden to prove by a preponderance of the evidence that he or she sustained a compensable injury in the course and scope of employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The 1989 Act defines "injury" as "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." Section 401.011(26). A claimant may meet his burden to establish an injury through his own testimony, if the hearing officer finds the testimony credible. *See* Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992.

Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that he was injured at work on _____, while he was working as a derrick hand. Claimant said that he started having problems that day at work, but that he thought it was just a "crick" that would "work out." In a transcribed statement, claimant said that he thought he had "twisted wrong" at work, but did not specify the exact mechanism of injury. Claimant said his pain grew worse over the next few days, that he experienced severe pain on _____, and that he went to the emergency room (ER) that day, where he was told he had a pinched nerve. Claimant said he was treated by Dr. G, that his symptoms improved, and that he was able to return to work for a construction company in March 1999. Dr. G's medical records state that claimant was diagnosed with cervical and thoracic subluxation, myalgia, myositis, and "cervical brachial radicular."

In this case, the evidence conflicted regarding whether claimant sustained a compensable injury at work. The hearing officer resolved the conflicts in the evidence and determined that claimant sustained a compensable injury at work. The hearing officer heard claimant testify that he told his doctors that his injury was work related and that the problem started while he was at work. The hearing officer heard the evidence and determined that claimant's injury was caused by his work activities. We will not substitute our judgment for the hearing officer's because his determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

Carrier next challenges the sufficiency of the evidence to support the hearing officer's disability determination. Carrier apparently asserts that, without a compensable injury, there can be no disability. We apply the Cain standard of review to this challenge. Because we affirm the hearing officer's determination regarding the compensable injury, we also affirm the disability determination.

Carrier next contends that the hearing officer erred in determining that claimant timely reported his injury to his supervisors. Carrier asserts that the hearing officer's determination is against the great weight and preponderance of the evidence. Carrier contends that claimant told Mr. E and Mr. M about his condition, but that he did not say it was work related. Claimant testified that he told Mr. E about his injury and that Mr. E asked whether claimant wanted to file an injury report. Claimant testified that he told Mr. E that he wanted to wait until after he saw a doctor. Claimant said he did not see Mr. E again and that on or about January 1, 1999, he asked Mr. M for an accident report. Claimant said Mr. M told him that he did not think "it would do claimant any good" and that it was too late to file a report.

Generally, a claimant must report an injury to his employer within the requisite 30-day period. Section 409.001. To fulfill the purpose of the notice provision, the employer need only know the general nature of the injury and the fact that it is job related. Where the claimant offers evidence that the supervisor was notified of the injury, but the supervisor testifies he or she was not notified, a question of fact exists for determination by the trier of facts. St. Paul Fire & Marine Insurance Co. v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 91066, decided December 4, 1991.

The hearing officer was the sole judge of the witnesses' credibility and obviously decided that claimant was credible in his testimony. The hearing officer determined that claimant timely reported his injury to both Mr. E and Mr. M. We will not substitute our judgment for that of the hearing officer where the determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, 709 S.W.2d at 176.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Gary L. Kilgore
Appeals Judge