

APPEAL NO. 991461

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 June 15, 1999. The issues at the CCH were whether the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and whether he had disability. The hearing officer determined that claimant sustained a compensable injury and that he had disability from April 10, 1999, to the date of the CCH. Appellant self-insured ("carrier" herein) appeals, contending that the evidence shows that claimant did not sustain an injury to his hand at work. Claimant responds that sufficient evidence supports the hearing officer's decision.

DECISION

We affirm.

Carrier contends the hearing officer's determination that claimant sustained a compensable injury to his hand is not supported by sufficient evidence. Carrier asserts that the evidence shows that claimant did not sustain an injury as he claimed.

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 on \_\_\_\_\_, he was throwing a garment he had sewn when his hand struck a passing cart. He said he felt pain, that he told his supervisor about his injury, and that he worked until the end of his shift that day. He said he went to several doctors, that he was diagnosed with a contusion, that he was placed on light-duty status, that he was given medications, and that he has not worked since his injury. Claimant said he was told that he did not have a fracture, but that his injury would "take some time." He testified that he was told by his employer that it would not allow him to come back to work until he was at "100%." Claimant's medical records state that he was diagnosed with a wrist contusion.

In this case, the evidence conflicted regarding whether claimant was injured.

Claimant testified that he did sustain an injury and his medical reports indicate that he was diagnosed with a contusion. 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. We apply the Cain standard of review to this challenge. The applicable standard of review and the law regarding disability is set forth in Texas Workers' Compensation Commission Appeal No. 950264, decided April 3, 1995. The evidence from claimant and the April 12, 1999, modified-duty certification form from Dr. Urrea (Dr. U) support the hearing officer's disability determination. We will not substitute our judgment for the hearing officer's because his disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain.

We affirm the hearing officer's decision and order.

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Judy Stephens  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Susan M. Kelley  
Appeals Judge