APPEAL NO. 991816

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 July 30, 1999. The single issue at the CCH was whether the respondent (claimant) sustained a compensable injury on _____. The hearing officer determined that the claimant sustained a compensable injury and the appellant (self-insured) has appealed, urging that the claimant did not meet her burden of proving that she sustained a compensable injury on _____. No response is on file.

DECISION

Affirmed.

The claimant testified that on _____, she was assisting a patient in the bathroom when he pulled hard on her left hand and leaned heavily on her as she assisted him in walking. She stated that she felt a lot of pain but that she continued her shift without reporting the matter. Two days later, because of her pain, the claimant went to an emergency room. The records show complaints of left shoulder and arm pain and indicated the onset of a crick in her neck two days earlier and a denial of recent injury. The claimant states she told them she was injured at work and did not state she had a crick in her neck. The next day she went to Dr. K; was noted to have swelling, muscle spasms, and discoloration; and was eventually diagnosed with left shoulder sprain, scapulohumeral myofascitis. There is medical evidence that shows the claimant had a prior injury and preexisting degenerative conditions in her lumbar spine and spurs in her cervical area which she indicated were no longer symptomatic. Dr. K, in answer to questions, stated that the injury was work related and that no preexisting condition was the sole cause of her current problems. The claimant denied that she was disgruntled with her job although the self-insured offered evidence showing attempts by the claimant to obtain a different job and that she gave somewhat inconsistent versions of her injury.

The hearing officer found the claimant's testimony, together with the medical records of Dr. K, showed by a preponderance of the evidence that the claimant sustained a compensable injury as claimed on _____. Clearly, there was some conflict and inconsistency in the evidence; however, this was a matter for the hearing officer to resolve. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); Section 410.165(a). A claimant's testimony alone, if believed, can establish an injury. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). Here, there was not only the testimony of the claimant but also the medical records and opinion of Dr. K that the claimant sustained a work-related injury on _____. While there is evidence to support inferences different from those found most reasonable by the hearing officer, this is not a sound basis to set aside findings of fact or conclusions of law based on those findings of fact. Texas Workers' Compensation

Commission Appeal No. 94466, decided May 25, 1994. We cannot conclude from our review of the record that the decision of the hearing officer is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Employers Casualty Company v. Hutchinson, 814 S.W.2d 539 (Tex. App.-Austin 1991, no writ). Accordingly, the decision and order are affirmed.

_____
Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Judy L. Stephens
Appeals Judge