APPEAL NO. 991821

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 28, 1999. In response to the issues at the CCH, the hearing officer determined that: (1) respondent (claimant) sustained a compensable injury on _____; (2) claimant had disability from January 29, 1999, to the date of the CCH; and (3) claimant timely reported her injury. Appellant (carrier) appeals, contending that these determinations are not supported by sufficient evidence. Claimant responds that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Carrier contends the hearing officer's determination that claimant sustained a compensable injury on _____, is not supported by sufficient evidence. Carrier asserts that claimant did not have medical evidence to prove that she sustained a compensable injury or to relate her complaints to work.

The applicable law and our appellate standard of review are stated in Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); Section 401.011(26); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); and Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

The facts of this case are adequately summarized in the hearing officer's decision. In this case, the evidence conflicted regarding whether claimant was injured at work. Claimant testified that she was injured when her foot was caught in a buffing machine and she was thrown against the wall. Claimant was not required to have medical evidence to establish that she sustained an injury. The hearing officer resolved the conflicts in the evidence and determined what facts were established. We will not substitute our judgment for the hearing officer's because her 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. 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. Carrier's contention seems to be that, because claimant did not sustain an injury, she did not have disability. Because we have affirmed the injury determination, we also affirm the disability determination.

Carrier next contends that the hearing officer erred in determining that claimant timely reported her injury to employer within 30 days of the date it occurred. Carrier asserts that the fact that Mr. WA saw claimant wearing a sock instead of a shoe did not establish that she

reported an injury to him. Carrier also contends that Mr. AA was not claimant's supervisor for the purposes of reporting an injury and that Mr. AA did not receive notice that any injury was related to claimant's work.

The applicable law regarding timely notice to any employer is stated in Section 409.001; DeAnda v. Home Insurance Co., 618 S.W.2d 529 (Tex. 1980); Section 409.001(b)(2); 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.); and Texas Workers' Compensation Commission Appeal No. 91066, decided December 4, 1991.

The hearing officer was the sole judge of the witnesses' credibility and determined that claimant timely reported her _____, injury to Mr. WA on January 6, 1999, when she told him that the reason she was wearing a sock was because the buffer "ate her lunch." Mr. WA also testified that he asked why claimant was wearing a sock, that claimant said she "tripped over" the buffer and that her foot was swollen, that he did not recall that she said the buffer "ate her lunch," but indicated that he knew the buffers will "eat your lunch." From this evidence, the hearing officer could and did find that claimant timely reported an injury to Mr. WA. 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. Because of our conclusion regarding timely notice, we need not address whether claimant also reported an injury to Mr. AA.

We affirm the hearing officer's decision and order.

_____
Judy Stephens
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

_____
Tommy W. Lueders
Appeals Judge