

APPEAL NO. 000187

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), and is a companion case to our decision in Texas Workers' Compensation Commission Appeal No. 000188, decided March 10, 2000, and Texas Workers' Compensation Commission Appeal No. 000410, decided March 10, 2000. A contested case hearing, which considered all three dockets, was held on November 15, 1999. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury or occupational disease of hepatitis C on _____; that the correct date of the claimed injury was _____; that the claimant timely reported the injury and timely filed a claim for compensation; and that the claimant did not have disability. The claimant appeals only the disability determination. The respondent (carrier) replies that the decision is correct, supported by sufficient evidence and should be affirmed.

DECISION

Affirmed.

The following background facts are contained in Appeal No. 000188:

The claimant has been a registered nurse since 1988 and before that a licensed vocational nurse. In early 1990, she donated blood. An abnormally high liver enzyme level was detected and, in a letter of March 7, 1990, from the collection center, the claimant was informed that a prior blood donation was also abnormally high. She was advised to see her physician and told she was no longer eligible to donate blood. In a letter of May 4, 1990, the blood center advised her of a research program testing for antibodies to the hepatitis C virus and that in the past she "had an infection with this virus." It was again recommended to her that she see her doctor "regarding hepatitis C."

On _____, while working in the emergency room, the claimant stuck herself with a needle. The incident occurred as she was disposing of a syringe in a container. The container was above her head and already full of needles. She could not readily appreciate any exposed needles sticking out of the container and stuck herself with one of those needles. Nor could she identify the particular needle or what patient the needle was used on. She immediately reported the incident to her supervisor [footnote omitted] and submitted a blood sample which tested negative for drugs, HIV, and "acute hepatitis profile." The claimant continued working. In October 1997, the claimant made an autologous blood donation in connection with a pending operation for a non work-related condition. The blood tested positive for hepatitis C. A liver biopsy on February 18, 1998, confirmed that she had a chronic hepatitis C infection and she began treatment with Dr. C. She was terminated from her employment on August 13, 1998.

The employer completed an Employer's First Report of Injury or Illness (TWCC-1) on September 1, 1998, in which it reflected a date of injury of _____. In undisputed testimony, she said that the employer took as the date of injury the date she was terminated from employment. She said there was no other significance to this date and she did not consider it to be the date of injury, which she attributed to the needle stick on _____. The Texas Workers' Compensation Commission assigned a separate docket number for this date of injury different from the docket number in Appeal No. 000188, *supra*, which deals with a _____ date of injury.¹

In Appeal No. 000188 we affirmed findings that the claimant's hepatitis C was not a compensable injury, that the date of the claimed injury was _____, and that she did not have disability. In her appeal of the finding of no disability in the case we now consider, the claimant again attributed her disability to the hepatitis C from the 1991 needle stick. We find the evidence sufficient to support the findings of no disability for an _____, claimed injury based on the unappealed findings that the claimant did not sustain a compensable injury on this date.

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

Alan C. Ernst
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Elaine M. Chaney
Appeals Judge

¹ A separate docket number was assigned to a claimed date of injury of September 15, 1994. See Appeal No. 000410, *supra*.