

APPEAL NO. 001473

On June 2, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issue by deciding that appellant (claimant) did not have disability from January 3 through June 2, 2000. Claimant requests that the hearing officer's decision be reversed and that a decision be rendered in her favor. Respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

It is undisputed that claimant sustained a compensable right knee injury on _____, when a patient at employer's facility kicked her and that she had disability to January 2, 2000. Claimant said that she was sent to Dr. E who took her off work, that she then saw Dr. W, and that she then returned to Dr. E. Claimant said that she has not received sufficient medical treatment to get better and that she is unable to work because of her knee problems.

Dr. E reported on _____, that claimant had a contusion of her right leg and that thrombosis should be ruled out. Dr. M reported on May 18, 1999, that a doppler ultrasound of claimant's right leg showed no evidence of deep venous thrombosis.

Dr. W wrote in October 1999 that x-rays of claimant's right knee showed mild degenerative disease with no fractures or dislocations and that claimant had an old contusion of the right knee and recommended physical therapy. Dr. W noted in November 1999 that carrier had not approved therapy and that physical examination revealed trace crepitus of the right knee, no effusion, stable ligaments, and no meniscal signs. Dr. W's January 10, 2000, report reflects a similar examination as that done in November 1999.

Dr. E reported on March 24, May 4, and May 15, 2000, that claimant could return to work without restrictions. A May 8, 2000, MRI of claimant's right knee revealed signal abnormalities in the medial meniscus without a tear, a small joint effusion of indeterminate cause and significance, and osteoarthritic changes.

Section 401.011(16) defines disability as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Claimant had the burden to prove that she had disability. Texas Workers' Compensation Commission Appeal No. 93953, decided December 7, 1993. With regard to the disputed issue of whether claimant had disability from January 3 through June 2, 2000, the hearing officer determined that claimant did not have disability from January 3 through June 2, 2000. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge