

APPEAL NO. 001501
FILED AUGUST 11, 2000

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 31, 2000, in _____, Texas, with _____ presiding as hearing officer. The hearing officer determined that the appellant (claimant) had disability resulting from the injury sustained on _____, beginning on _____, through _____, and from _____, through _____. The claimant appealed on sufficiency grounds. The respondent (carrier) responded that the Appeals Panel should affirm the decision and order.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that he did not have disability after February 23, 2000. Claimant asserts that his disability continued to the date of the hearing.

The applicable law regarding disability and our appellate standard of review are stated in Texas Workers' Compensation Commission Appeal No. 000032, decided February 18, 2000; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995; and Texas Workers' Compensation Commission Appeal No. 950264, decided April 3, 1995.

The hearing officer summarized the evidence in the decision and order. Briefly, claimant testified that he worked as a truck driver and his job duties involved truck driving, climbing ladders, loading and unloading chemicals, and dragging hoses. Claimant said he wore gloves to drive and also wore rubber gloves and took other required safety precautions when loading and unloading chemicals. He said he sustained an injury to his hands, believed to be contact dermatitis, on _____, when he handled a steering wheel cover that, he believes, had chemicals on it. Claimant said he believed that other employees had been washing the trucks using chemicals and that they also moved the trucks, driving with gloves they had on while washing the trucks. Claimant said the skin on his hands began to crack and bleed after he handled the steering wheel cover and removed it. Claimant said sometimes the condition of his hands improves and then it will worsen again.

Claimant testified that he has seen (Dr. D), his former treating doctor; (Dr. K); (Dr. P); and (Dr. B), his current treating doctor. Dr. D had returned claimant to work on December 7, 1999, but thereafter took claimant off work again. Claimant said Dr. D recommended that he return to work only because Dr. D "was under pressure." Claimant testified that Dr. K gave him medications for his hands and told him he should

wear cotton gloves. In medical notes dated in February 2000, Dr. K said claimant could return to work, that he should wear gloves, and that he should avoid chemicals, "wet" work, friction, and dryness. Claimant said that when Dr. D retired, Dr. B became his treating doctor. Claimant testified that Dr. B sent him to (Dr. T), a specialist, who told him he disagreed with Dr. K and that claimant should not wear cotton gloves. In a May 2000 report, Dr. T stated that claimant "cannot work at his usual occupation with his condition."

Whether claimant had continuing disability was a fact issue for the hearing officer. The hearing officer heard claimant's testimony, reviewed the medical evidence, and decided what facts the evidence established. The hearing officer determined that claimant did not meet his burden to prove that he was unable, because of his compensable injury, to obtain and retain employment at wages equivalent to his preinjury wage after February 23, 2000. Section 401.011(16). The hearing officer was the sole judge of the credibility of the evidence. Claimant's assertions concern credibility determinations that are the sole province of the hearing officer. The hearing officer was not required to believe any of the medical evidence in this case in making her determinations.

Claimant contends that even though Dr. K said he could return to work, she included work restrictions in that she advised him to wear cotton gloves and to avoid chemicals. However, the hearing officer noted that claimant usually wears gloves anyway when he works. Claimant also said that, in his work, he has never spilled chemicals on himself. The hearing officer could have concluded from the evidence that claimant did not have any restrictions that would prevent him from returning to work and earning his preinjury wage.

Claimant contends that, even though there was videotape evidence that he used his hands, without any gloves, to water the lawn, pump gas, add oil to his car, and drive his car, he still cannot perform his duties or drive a truck because this involves much heavier use of his hands. However, whether claimant could obtain and retain employment at wages equivalent to his preinjury wage after _____, was a fact issue that the hearing officer resolved after reviewing the evidence. We will not substitute our judgment for the hearing officer's because her disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Robert W. Potts
Appeals Judge