

APPEAL NO. 001687

On June 28, 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 issues by deciding that the respondent (claimant) sustained a compensable injury on or about _____, and that the claimant had disability from October 27, 1999, to November 20, 1999, and from February 24, 2000, to April 11, 2000. The appellant (carrier) requests that the hearing officer's decision be reversed and that a decision be rendered in its favor. The claimant requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that on _____, she was sitting at her workstation in the employer's dry cleaning store when she saw a charcoal grey spider with white spots crawl off the sandal on her left foot; that she turned to her right to get her other sandal to kill the spider; and that when she turned back, the spider was gone. The claimant said that she did not see the spider bite her. The claimant said that within 30 to 45 minutes of seeing the spider she became disoriented and had chills and fever. She said that she asked to be released from work to see a doctor but had to stay at work because there was no one to take her place. She said that after work she went home and went to bed. She said that the next day she had "stripes" going up her leg to her knee and that she called her aunt, who, she said, knows a little bit about nursing, to check her.

In a recorded statement, GM, who is apparently the claimant's aunt, stated that the evening of October 27, 1999, she and a friend went to the claimant's apartment and the claimant was complaining of nausea, fever, and headaches, and that the claimant told her that she had been bitten by a spider at work. GM said that her friend checked the claimant's "sugar," apparently referring to the claimant's blood sugar, with GM's monitor and that the claimant's "sugar" was both "fine right" and "high" that day. GM said that she examined the claimant's "foot" and "ankle" for bite marks and that the claimant's ankle had swelling and redness. GM said that in the middle of the redness was a "dark red bite, insect bite." The claimant said that GM told her that she had a bite on her ankle and to see a doctor.

The claimant said that she went to Dr. G on October 28, 1999; that she showed Dr. G her leg; and that Dr. G told her that it looked like she had a bite. The claimant said that she told Dr. G that it was a spider bite. Dr. G's notes of October 28, 1999, stated that the claimant had a possible spider bite, per the claimant, with swelling and pain of the left ankle. Dr. G diagnosed phlebitis and something illegible. On October 29, 1999, Dr. G diagnosed cellulitis. The claimant said that Dr. G had her admitted to a hospital where she underwent a debridement procedure from her ankle to her toes.

A hospital record that appears to be dated October 29, 1999, but may be sometime in November 1999, notes that the claimant underwent a debridement of her infected left leg and foot due to cellulitis after an insect bite. The hospital discharge report of November 6, 1999, notes that the claimant had cellulitis of her left leg for which she was given antibiotics and that she was transferred to a skilled nursing facility to continue taking care of her wound. The discharge summary states that the initial impression was borderline diabetes and cellulitis and gave a final diagnosis of cellulitis of the claimant's leg, morbid obesity, and an abnormal glucose tolerance test. The hospital records reflect that the claimant was referred to a wound care center. The wound center noted on November 11, 1999, that the claimant was to stay off her feet for 10 more days and then was to return to her duties. Dr. K wrote on November 11, 1999, that the claimant had completed wound center treatment for a "necrotic insect bite." The claimant said that she was able to return to work after being released to return to work in November.

The claimant went to a medical clinic on December 28, 1999, for swelling of her left leg and gave a history of having been bitten by a spider at work on _____. The claimant was treated at a hospital on February 23, 2000, for recurrent cellulitis of the left leg and the hospital records for that visit note the history of the spider bite in October 1999 and state that the claimant had not been "rebitten." The February 23 hospital records reflect that the claimant was taken off work again at that time. The claimant was treated at a hospital in March 2000 for swelling and redness of her left leg and the hospital records record a history of having been bitten by a spider on the left leg in October 1999. For some unexplained reason, Dr. G's notes of February 28, 2000, and March 30, 2000, mention a right ankle spider bite. The claimant said that she did not have a spider bite to her right leg.

The hearing officer found that the claimant sustained an injury in the form of a spider bite on _____, while in the course and scope of her employment and that the claimant was unable to obtain and retain employment at her preinjury wages from October 27, 1999, through November 20, 1999, and from February 24, 2000, through April 11, 2000. The hearing officer concluded that the claimant sustained a compensable injury on or about _____, and that the claimant had disability resulting from the compensable injury from October 27, 1999, through November 20, 1999, and from February 24, 2000, through April 11, 2000.

The carrier asserts that the case turns on the credibility of the witnesses, that the claimant never saw or felt a spider bite, and that references in the medical records that reference a spider bite or insect bite come from the claimant. The carrier asserts that the doctors did not draw a causal connection between the alleged spider bite and the claimant's symptoms. There is evidence that the claimant saw a spider crawling off the sandal of her left foot while at work on _____; that within 30 to 45 minutes of that occurrence she became disoriented and had chills and fever; that the next day her left ankle was red and swollen; that her aunt examined her left ankle and found what was thought to be an insect bite; that the claimant was admitted to a hospital and underwent a debridement procedure of her infected left leg for cellulitis due to an insect bite; and that

the claimant went to a wound center for continued treatment of what a doctor called a necrotic insect bite. With this evidence before the hearing officer, who is the judge of the weight and credibility of the evidence, we cannot conclude that the hearing officer's decision is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. We conclude that the hearing officer's decision that the claimant sustained a compensable injury on _____, and that the claimant had disability for the time periods found by the hearing officer 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:

Kathleen C. Decker
Appeals Judge

Alan C. Ernst
Appeals Judge