

APPEAL NO. 001928

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 July 19, 2000. The hearing officer determined that the appellant (claimant) did not have disability from April 27, 1999, to March 27, 2000. Claimant appealed this determination on sufficiency grounds. Respondent self-insured (carrier herein) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that he did not have disability from April 27, 1999, through March 27, 2000. Claimant asserts that the hearing officer should have found from the evidence that he had disability during this time period.

Claimant sustained a compensable knee and hernia injury on _____. He continued to work, but then sustained a separate, work-related injury to his back on _____. Claimant did not work after that time. Claimant underwent hernia repair surgery on February 5, 1999, and the hearing officer noted medical evidence that it would take about six weeks for recovery from that surgery. There was other medical evidence dated in late 1998 and early 1999 indicating that claimant had normal strength and range of motion in his knee. In a March 27, 2000, note, Dr. B stated that claimant is off work pending surgery to explore the hernia surgical site. On June 20, 2000, Dr. B performed surgery to explore the hernia surgical site and removed a granuloma. Dr. B noted that claimant had suffered inflammation at the hernia surgical site.

The hearing officer noted that claimant had disability related to his knee injury from April 2, 1998, to November 30, 1998, and due to the hernia injury from February 5, 1999, to March 18, 1999, and from March 27, 2000, to the date of the hearing. However, the hearing officer determined that claimant did not have disability for the claimed period, from April 27, 1999, to March 26, 2000. The hearing officer reviewed the evidence and gave whatever weight he deemed appropriate to that evidence. He judged the credibility of the evidence and determined what facts were established. The hearing officer could choose to believe or disbelieve any part for the evidence. We have reviewed the record and the hearing officer's decision and we conclude that the disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge