

APPEAL NO. 002168

On July 21, 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 appellant (claimant) sustained a compensable injury on _____; that the claimant timely reported her injury to her employer; and that the claimant had disability for one day, on March 27, 1998. The claimant requests that the hearing officer's decision that she had disability for one day, on March 27, 1998, be reversed and that a decision be rendered that she had disability from March 27, 1998, through March 27, 2000. The respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that on Thursday, _____, she was performing her job duties putting boxes into a trash dumpster when the door of the dumpster hit her head. She said that she immediately reported her accident. The claimant was taken to a hospital on _____ where she was diagnosed as having a hematoma to the left side of her head and a cervical strain and was released to return to work on March 28. The claimant said that she did not work on Friday, March 27; that she returned to work on Monday, March 30 and worked for one week; that she stopped working after that week because of bad headaches; that she worked for one week in May 1998; and that she stopped working after that because of bad headaches. The claimant went to a hospital in August 1998 and several times thereafter complaining of headaches. X-rays of the claimant's cervical spine done in November 1998 were reported to show no significant abnormality and a brain MRI done in December 1998 was reported to show an incidental finding but was otherwise unremarkable.

There is no appeal of the hearing officer's findings that the claimant injured her left forehead when she bumped her head on the door of a trash container and that the claimant timely reported her injury. The claimant appeals the hearing officer's finding that, because of the compensable injury of _____, the claimant had been unable to obtain and retain employment at wages equivalent to her preinjury wage for one day, March 27, 1998, and the claimant appeals the hearing officer's conclusion that the claimant had disability on March 27, 1998. The claimant contends that the evidence shows that she had disability from March 27, 1998, to March 27, 2000.

The claimant had the burden to prove that she had disability as defined by Section 401.011(16). A claimant's testimony alone can establish disability if the testimony is found credible by the hearing officer. In the instant case, the hearing officer was apparently not persuaded that the claimant's injury caused her to be unable to obtain and retain employment at her preinjury wages for more than one day. As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines the weight and credibility of

the evidence. We conclude that the hearing officer's decision on the disability issue 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:

Kenneth A. Huchton
Appeals Judge

Tommy W. Lueders
Appeals Judge