

APPEAL NO. 002231

On August 24, 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 issues at the CCH were whether the appellant (claimant) sustained injuries to her neck, back, and left knee within the course and scope of her employment and whether the claimant has had disability. The hearing officer resolved the disputed issues by deciding that the claimant sustained a compensable injury to her left knee on _____; that the claimant did not sustain compensable injuries to her back and neck on _____; and that the claimant had disability from _____, to March 24, 2000. The claimant requests that we reverse the hearing officer's decision that she did not sustain compensable injuries to her back and neck on _____, and that she had disability for the period found by the hearing officer, and that we render a decision that she sustained compensable injuries to her back and neck and that she had disability after March 24, 2000. No response was received from the carrier.

DECISION

Affirmed.

The claimant testified that on _____, she was teaching a class when she saw a student make a gang sign and that as she got up from her chair to go over to that student, she bumped her foot on her desk, felt her left knee pop, and had left knee pain. The claimant said that afternoon she went to Dr. SC, a chiropractor, who told her that she had injured her left knee, prescribed a knee brace, and mentioned a walking cane. The claimant said that she then started treating with Dr. LC, a chiropractor. The claimant said that due to her altered gait from her knee injury and the use of a cane, she developed back and neck pain. The claimant said that she has not been able to work since her injury due to knee pain.

Dr. LC testified that when he first saw the claimant on February 25, 2000, the claimant told him how she had injured her left knee at work and complained of left knee pain and neck pain, and that the next day the claimant complained of lower back pain. Dr. LC said that he is treating the claimant for her left knee, neck, and back. Dr. LC said that the claimant's pain and symptoms in her neck and lower back are secondary to the claimant's altered gait from the left knee injury and from using the cane. Dr. LC said that based on his examination of the claimant and a left knee MRI, he diagnosed the claimant as having a torn anterior cruciate ligament and a torn medial collateral ligament. He said he also diagnosed the claimant as having a lumbar sprain/strain and a cervical sprain/strain. Dr. LC said that, initially, the claimant was not able to stand for any period of time or to walk for any long distance and was unable to get up and down.

The principal of the school the claimant taught at and the superintendent of the school district testified that teachers are not required to stand while teaching. A memorandum from the school principal noted that the claimant had walked into the school on several occasions in March 2000.

Dr. LC's report for the claimant's visit of February 25, 2000, noted that the claimant told him that she had injured her left knee at work and that she complained of left knee pain, neck pain, and lower back pain. Dr. F, a chiropractor, reported that an MRI of the claimant's left knee showed effusion with synovitis, a tear of the anterior cruciate ligament, a tear/sprain of the medial collateral ligament, and osteoarthritis. Dr. LC's report of March 24, 2000, noted various restrictions and stated that the claimant is not released to return to work. On May 12, 2000, Dr. LC noted the findings of the left knee MRI and stated that the claimant also suffers from low back pain from an altered gait and from an antalgic position due to knee pain and that she suffers from neck pain due to applying pressure to her cane. Dr. LC added that, initially, the claimant was unable to walk without a cane and that she still requires assistance. Dr. LC also wrote that the claimant is unable to work. On July 12, 2000, Dr. LC noted that the claimant continued to complain of left knee pain, that her lower back and neck pain had improved, and that she was released to light-duty work with no repetitive up and down movements and no standing for long periods of time.

There is no appeal of the hearing officer's decision that the claimant sustained a compensable left knee injury on _____. The hearing officer found that the claimant did not damage the physical structure of her neck or back at work on _____, and that she did not have damage to the physical structure of her neck or back that naturally flowed from the compensable knee injury, and determined that the claimant's back and neck are not part of the compensable injury. The hearing officer states in his decision that the claimant sustained an injury to her left knee on _____, but that she does not have injuries to her neck and back. The hearing officer further determined that the claimant's physical limitations from the _____, compensable knee injury did not prevent the claimant from earning her preinjury wages after March 24, 2000. The hearing officer determined that the claimant had disability from _____, to March 24, 2000.

Section 401.011(26) defines "injury" as damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm. In Texas Workers' Compensation Commission Appeal No. 992667, decided January 13, 2000, the Appeals Panel wrote that in Texas Workers' Compensation Commission Appeal No. 971849, decided October 20, 1997, the Appeals Panel had surveyed cases involving follow-on injuries and that in that decision we had held that the "naturally flowing" standard is the appropriate standard to be used in these type cases, citing Maryland Casualty Co. v. Rogers, 86 S.W.2d 867 (Tex. Civ. App.-Amarillo 1935, writ ref'd).

Whether the claimant's altered gait and use of a cane from the compensable knee injury caused injury to the claimant's back and neck, and whether and for what period of time the claimant had disability were fact questions for the hearing officer to determine from the evidence presented. The hearing officer is the sole judge of the weight and

credibility of the evidence. Section 410.165(a). As the trier of fact the hearing officer resolves conflicts in the evidence and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The fact that the claimant reported having pain in her neck and back from an altered gait and the use of a cane does not mean that the hearing officer was compelled to find that the claimant had a back or neck injury, as defined by Section 401.011(26). The weight to be given to the claimant's testimony and to Dr. LC's testimony and reports was for the hearing officer to determine as the trier of fact. The hearing officer was apparently not persuaded by the evidence that the claimant was unable to obtain and retain employment at wages equivalent to her preinjury wages because of her compensable left knee injury after March 24, 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:

Kathleen C. Decker
Appeals Judge

Judy L. Stephens
Appeals Judge