APPEAL NO. 002560

Following a contested case hearing held on October 3, 2000, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the disputed issue by determining that the respondent (claimant) had disability from January 26, 2000, through the date of the hearing. The appellant (self-insured) asserts that the decision is against the great weight of the evidence and that even if disability had otherwise existed, the claimant could not have had disability during the six weeks following the birth of her second child because she would not have worked during that time even if fully able to do so.

DECISION

We affirm.

The claimant sustained a compensable back injury on _____, while employed by (subsidiary), a subsidiary of (employer). She received medical care at an emergency room, was taken off work for two days, was off several days more due to a plant vacation, and then returned to work on light duty. The claimant worked light duty until January 26, 2000, at which time she was taken completely off work. The parties disagree on the reason for the claimant's inability to continue working after January 26, 2000. The claimant presented evidence that the inability to continue working was due to her back injury. The self-insured presented evidence that the inability was due to medical complications of the claimant's pregnancy and due to the claimant's desire to remain home for six weeks after she gave birth on April 17, 2000. It is undisputed that the claimant moved from Texas (city 1), to Texas (city 2), in June 2000, and that after she secured another treating doctor in late July 2000, her new treating doctor continued the claimant's off-work status.

There was a conflict in the evidence presented. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995. There is evidence to support the hearing officer's determination that the claimant was taken off work in January not as a result of any medical complications of the pregnancy, but because of the back injury. Although the evidence could have supported other inferences, we will not substitute our judgment, even if different, for the hearing officer's.

It is noted that the self-insured asserts that the hearing officer's finding that the claimant was unable to obtain and retain employment during the six weeks after giving birth because of the compensable injury and also because of her desire to stay at home with her baby represents an irreconcilable conflict with the hearing officer's determination that

the claimant had disability during that period. Whether disability exists for any period of time presents a question of fact for the hearing officer to decide and can be proved by the testimony of the claimant alone, if found credible. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. We have held that a compensable injury need only be a producing cause of the disability, not the only cause. Texas Workers' Compensation Commission Appeal No. 931117, decided January 21, 1994. In the case before us, there is evidence that the claimant's low back injury precluded her from returning to even light duty from January 26, 2000, through the date of the hearing. There is no conflict between a finding of disability and multiple causes for the inability to work.

We affirm the decision and order of the hearing officer.

Kenneth A. Huchton
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge