

APPEAL NO. 002634

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 26, 2000. With regard to the issues before him, the hearing officer determined that the appellant (claimant) had not sustained a compensable injury in the form of a repetitive trauma occupational disease and that the claimant did not have disability.

The claimant appealed, contending that her testimony and medical evidence established a repetitive trauma to her feet and that she has had disability from April 14, 2000 (all dates are 2000 unless otherwise noted), to the date of the CCH. The claimant requests that we reverse the hearing officer's decision and render a decision in her favor. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant testified that she was a "stocker" which required her to stand and/or walk eight to ten hours a day (with breaks) stacking boxes from a conveyor belt onto shelves. The claimant testified that she began having pain and problems with her feet at the beginning of April, that she reported the injury and that she was referred to Dr. G on April 14. In dispute is whether Dr. G told the claimant that her foot problem was work-related or whether the claimant told Dr. G that she believed her foot problem was work-related. The employer's safety manager testified that the flooring in the employer's facility was covered by a heavy rubber "anti-fatigue matting."

Dr. G's report of April 14 noted complaints of pain in both heels, left worse than right, and diagnosed plantar fascial fibromatosis, both sides, and heel spurs, both sides. The space for employer was noted as "N/A" and the initial visit was treated as a nonwork-related complaint. In a subsequent report dated May 24, Dr. G stated:

[The claimant] tells me that this is a work-related injury. The patient is convinced that this is a [sic] related to her work because she lifts up a lot of boxes. It could certainly be related to her type of work. Next time, I will dictate this report as a work-related injury. [Emphasis in the original.]

The hearing officer, in his Statement of the Evidence, summarized the position of the parties, discussed the law and Appeals Panel decisions with regard to occupational disease in general and more specifically that work activities such as standing and walking as being "generally not a basis to establish a work-related occupational injury," citing several Appeals Panel decisions.

We have reviewed the testimony and the evidence on the appealed issues and find no reversible error. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

Upon review of the record submitted, we find no reversible error. We will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Judy L. Stephens
Appeals Judge