

APPEAL NO. 002689

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. The hearing officer resolved the disputed issues of extent of injury and disability by deciding:

1. The respondent's (claimant) de Quervain's condition is the result of his compensable injury of _____.
2. The claimant had disability from October 25, 1999, through the date of the CCH.

The appellant (carrier) appealed and the claimant responded.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

There was conflicting evidence presented at the CCH on the disputed issues. The hearing officer's finding that the claimant's de Quervain's condition results from his compensable injury is supported by the testimony of the claimant and the opinions of several doctors, including a treating doctor, the designated doctor, and a medical examination order doctor selected by the Texas Workers' Compensation Commission. While the company doctor who initially treated the claimant did not diagnose de Quervain's condition and Dr. F, the carrier's required medical examination order doctor, did not believe the claimant suffered from this condition, the question under our standard of review was whether the hearing officer's determinations were 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). Applying this standard, we find sufficient evidence to support the hearing officer's finding that the claimant's de Quervain's condition is the result of his _____, injury.

The issue of disability is somewhat more complex. The claimant was initially released to light duty by the company doctor and testified that he did return to restricted work. At some point the claimant was released to full-duty work, but it is not clear when as the report releasing the claimant from the company doctor is undated. It is clear that the claimant was terminated on September 26, 1999, for violating the employer's attendance policies while attending his father's funeral. The carrier contends that the claimant's inability to obtain work after his termination was the result of his termination, and not his compensable injury. However, on October 25, 1999, the claimant saw Dr. C, who stated that the claimant suffered a crush injury and that the claimant was precluded from any employment requiring the use of both hands. The claimant was referred to Dr. V, who diagnosed de Quervain's syndrome and recommended surgery. Subsequently, other doctors also recommended surgery. Termination for cause does not necessarily preclude

a claimant from subsequently suffering disability. Texas Workers' Compensation Commission Appeal No. 91027, decided October 24, 1991. In light of the additional work restrictions and the surgical recommendation of Dr. V, and other doctors, we find sufficient evidence to support the hearing officer's finding of disability.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Philip F. O'Neill
Appeals Judge