

APPEAL NO. 002739

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 30, 2000, with the record closing on November 2, 2000. The hearing officer, resolved the disputed issues by determining that the appellant (claimant) did not sustain an injury in the course and scope of employment on _____; that he did timely report the claimed injury; and that he did not have disability. The claimant has appealed the injury and disability issues, asserting that, until he saw a doctor on July 5, 2000, he took over-the-counter medications to control his pain so that he could continue his job of serving meals-on-wheels. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant, then 75 years of age, testified that on _____, while walking into a yard around noon to deliver a meal to a client, he tripped over a vine and fell heavily forward, extending his right leg to prevent his falling to the ground, and that he experienced pain in the back of his right leg from the knee area to the buttock area; that he finished his meal-delivering shift; and that he continued his work of delivering meals but had to cut back on his dancing and managed his right hamstring pain with over-the-counter medications until July 5, 2000, when he saw a doctor and was given certain physical activity restrictions which the employer could not meet.

Injury is defined in Section 401.011(26) to mean "damage or harm to the physical structure of the body and a disease or infection that naturally results from the damage or harm." The hearing officer found that the incident the claimant experienced on December 7 did not cause damage or harm to the physical structure of the claimant's body and that his inability to work from July 5 through October 30, 2000, was not the result of a compensable injury.

We cannot say that these determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer could consider that the claimant continued to drive and deliver meals from _____, to July 5, 2000, and continued to carry out his activities of daily living albeit reducing his dancing sessions from three times a week to once a week, and could conclude that the claimant did not damage or harm the physical structure of his body when he slipped and fell forward on _____.

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge