APPEAL NO. 002811

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 November 6, 2000. With regard to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable right ankle injury on _____ (all dates are 2000 unless otherwise noted) and that the claimant had disability from July 25 to August 16 but did not have disability on August 28.

The appellant (self-insured) appealed, challenging the claimant's credibility and the mechanics of how the injury occurred and asserting that the "causal link of a twisted ankle" requires expert medical evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant was employed as a custodian at the self-insured's facility. The claimant testified through a translator that on the morning of Friday, _____, she twisted her right ankle carrying a vacuum cleaner and "immediately" reported the injury to her supervisor. It appears undisputed that the claimant verbally reported the injury on _____ but a good deal of the testimony dealt with the disputed circumstances of requiring the claimant to prepare a written statement. The claimant continued working on _____ and the statement was prepared on Monday, July 24. The claimant sought medical attention from Dr. A on July 25.

In a report dated July 25, Dr. A recited a history that the claimant "twisted her right ankle and leg," objectively found swelling and echymosis of the right foot and ankle, diagnosed a strain/sprain of the right ankle, and took the claimant off work. The claimant returned to work on August 16.

We have frequently noted, and the self-insured commented, that the hearing officer is the sole judge of the weight and credibility to be given to the evidence and resolves any inconsistencies or 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). Regarding the self-insured's assertion that expert medical evidence is required to establish causation of a sprained ankle, we categorically reject that notion. We hold that, in this case, expert evidence (although present) is not required as we do not consider the question of causation of a sprained ankle to be beyond common knowledge. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). Whether the hearing officer felt it was reasonable for the claimant to wait four days to seek medical attention, or whether the hearing officer should consider other testimony about the claimant running, was strictly a matter for the hearing officer to resolve.

We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses for that of the hearing officer.

Accordingly, the hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge