

APPEAL NO. 002956

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 November 27, 2000. The hearing officer held that the appellant (claimant) had sustained a compensable injury on _____; and that he did not have disability from his injury.

The claimant has appealed the disability holding as against the great weight and preponderance of the evidence. The respondent (carrier) responds that the decision has sufficient support in the evidence.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err by finding that the compensable injury did not result in disability. In favor of this determination is the claimant's statement to his workers at the time of the injury that he was okay, the fact that he continued to work until suspended and then terminated for insubordination, and his statement that he believed, on the day of the CCH, that he could perform his old job, even if he might have some pain. Conflicting evidence was offered by the treating doctor's reports taking the claimant off work and the claimant's contention that he tried working for three days in September but could not continue due to pain. The hearing officer was not required to view these reports as conclusive on the matter of whether the injury resulted in the inability to obtain and retain employment equivalent to the preinjury average weekly wage.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We cannot agree that this is the case here, and affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge