

APPEAL NO. 013123
FILED FEBRUARY 12, 2002

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 28, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from May 4, 2001, through August 27, 2001. The appellant (self-insured) appeals the determinations on sufficiency grounds and asserts that the claimant could not have disability from June 14, 2001, through August 14, 2001, because she was not scheduled to work during that period of time. No response was filed by the claimant.

DECISION

Affirmed.

COMPENSABLE INJURY

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. This was a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 (Tex. 1986).

DISABILITY

The hearing officer did not err in determining that the claimant had disability from May 4, 2001, through August 27, 2001. The claimant was a school bus driver for the self-insured. The claimant testified that she was not scheduled to work from June 14, 2001, through August 14, 2001, and did not traditionally work elsewhere during these summer months. Under the circumstances, the self-insured asserts that the claimant could not have disability from June 14, 2001, through August 14, 2001.

In Texas Workers' Compensation Commission Appeal No. 92649, decided January 6, 1993, we held that disability for a school district employee did not end when the school year ended, even when the employee did not traditionally work during the summer months between the end of one school year and the beginning of the next. Similarly, we have said that the compensable injury need not be the sole cause of the inability to obtain and retain employment. Texas Workers' Compensation Commission Appeal No. 93449, decided July 21, 1993. Rather, the focus of the inquiry is on the inability to obtain or retain employment at preinjury wages. In view of the claimant's testimony and medical evidence, the hearing

officer could find, as she did, that the claimant was unable to obtain or retain employment at preinjury wages for the stated period, as a result of the compensable injury. The hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Edward Vilano
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge