

APPEAL NO. 020686
FILED MAY 13, 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 (CCH) was held on February 27, 2002. The appellant (carrier) appeals the hearing officer's determinations that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the claimant's date of injury is _____; that the claimant reported the injury to the employer on _____; and that the claimant had disability from February 5, 2002, through the date of the CCH. The claimant responds, urging affirmance.

DECISION

Affirmed.

After review of the record before us and the complained-of determinations concerning the claimant's injury, date of injury, and date of reporting the injury to the employer, we have concluded that there is sufficient support for those determinations. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier also appeals the hearing officer's disability determination, contending that the report the hearing officer relies upon to award the claimant disability does not take the claimant off work. The hearing officer stated, "On February 5, 2002, [the treating doctor] indicated for the first time that the Claimant's pain had reached the point that indicated she may not be able to work because of it." We agree with the carrier, that to the extent the hearing officer is quoting the treating doctor's report, the report does not take the claimant off work. The claimant has not appealed the disability determination, so the issue before us is whether there is support in the record for the hearing officer's determination of disability from February 5, 2002, to the date of the CCH.

We will uphold the hearing officer's judgment if it can be sustained on any reasonable basis supported by the evidence. Daylin, Inc. v. Juarez, 766 S.W.2d 347, 352 (Tex. App.-El Paso 1989, writ denied); Texas Workers' Compensation Commission Appeal No. 950791, decided July 3, 1995. The claimant was laid off from her job at the end of September 2001, because of a reduction in force. Even though the hearing officer did not find that the claimant had disability until February 5, 2002, the claimant's treating doctor placed work restrictions on the claimant on November 6, 2001. The claimant testified that she has not been taken off her restrictions and that she has been told not to engage in employment requiring keyboarding. A claimant's testimony alone, if believed, is sufficient to establish that an injury has caused disability. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). Medical evidence is not required to establish disability. Texas Workers' Compensation Commission Appeal No. 92500, decided October 30, 1992. A release to work with restrictions is evidence that disability continues. Texas

Workers' Compensation Commission Appeal No. 950246, decided March 31, 1995; Texas Workers' Compensation Commission Appeal No. 91045, decided November 21, 1991.

Consequently, there is evidence to support the hearing officer's determination that the claimant had disability from February 5, 2002, to the date of the CCH and, accordingly, the hearing officer's decision and order are not so against the great weight and preponderance of the evidence as to be manifestly unfair or unjust and are affirmed. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Roy L. Warren
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge