

APPEAL NO. 023167
FILED JANUARY 28, 2003

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 4, 2002. The hearing officer determined that the respondent's (claimant) injury extended to an impingement syndrome of the right shoulder, but not to osteoarthritis of the right shoulder, and that he had disability from his injury beginning August 12, 2002, and continuing through the date of the CCH.

The appellant (carrier) appeals, and argues that the extent-of-injury and disability determinations are against the weight of the evidence. The claimant argues facts in favor of the decision.

DECISION

We affirm the hearing officer's decision as modified.

CORRECTION

At the outset, we note that the exhibits list for each party in the Decision and Order is wrong. The corrected list of party exhibits in the record is as follows:

Claimant's Exhibits:

1. Ombudsman Assistance Form Request.
2. Medical Records- (Minor Emergency Clinic)
3. Medical Records- Dr. M
4. TWCC-73s
5. MRI-right shoulder
6. (Clinic) report
7. Letter from TWCC to Dr. (M)

Carrier's Exhibits

1. X-Ray report
2. Personnel Records 12 pages
3. Peer Review Report, Dr. C

The claimant, in his early 50's, was employed as a janitor and sustained an undisputed injury to his right shoulder when he pulled on a stuck van door on _____ . He was treated at first by a minor emergency center and then referred to an orthopedic doctor when his shoulder did not get better. Requested arthroscopic surgery was denied by the carrier. The claimant was terminated on August 12, 2002, and a transcription of the interview of his termination showed that he requested, but was

not given a reason for his termination; he denied that he was ever informed of any dissatisfaction with his work that would constitute a firing offense, although he was on occasion late, and there were records indicating arguments with coworkers. There is conflicting medical evidence concerning the extent and nature of his condition, with his treating doctor indicating aggravated right shoulder conditions. The claimant lived in a residential facility that required him to work and he said his doctor took him off work in August 2002 against his wishes.

A claimant's testimony alone may establish that an injury has occurred, and disability has resulted from it. Houston Independent School District v. Harrison, 744 S.W.2d 298, 299 (Tex. App.- Houston [1st Dist.] 1987, no writ). We cannot agree that the shoulder injury here required expert medical evidence and while different inferences could certainly have been drawn as to extent of injury or the length of disability, the decision of the hearing officer on both issues is not so against the great weight and preponderance of the evidence as to be manifestly unfair or unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We therefore affirm the decision and order as modified.

The true corporate name of the insurance carrier is **CRUM & FORSTER INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**PAUL DAVID EDGE
6404 INTERNATIONAL PARKWAY, SUITE 1000
PLANO, TEXAS 75093.**

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge