

APPEAL NO. 991340

On June 2, 1999, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). The issue at the CCH was whether the _____ compensable low back injury of the appellant (claimant) "is a producing cause of her lumbar sprain and disc disruption syndrome." The hearing officer decided that the _____ compensable injury is not a producing cause of her lumbar sprain and disc disruption syndrome. The claimant requests review of the hearing officer's determinations in this regard. The respondent (carrier) requests affirmance.

DECISION

We affirm.

Claimant contends the hearing officer erred in determining that claimant's compensable low back injury is not a producing cause of her lumbar sprain and disc disruption syndrome. She asserts that her doctors have stated that her injury is the type that would produce disc disruption syndrome and that her testimony supported the doctors' assessment.

Claimant testified that she was injured on _____, when she was struck in the back by a shopping cart as she was squatting at work. She said she stopped working immediately and told her manager about it the next day. She said she had visible swelling on her back, that she saw a doctor about three days later, that she did not lose time from work, and that she worked light duty for about three months. Claimant testified that after about three weeks, she was able to wake up without back pain and that her back bothered her only slightly when she started to bend and walk more. Claimant said she did not seek medical treatment between 1995 and 1998 because she did not want to be on light-duty status. She said she was not eligible for promotions while on light-duty status. Claimant said she treated herself with aspirin and over-the-counter pain medications and that she sought medical treatment in March 1998 because this no longer relieved the pain.

A medical report apparently dated September 12, 1995, states that claimant reported being struck in the back by a shopping cart; that her diagnosis is "contusion to low back"; and that she did not have radicular symptoms. In a "workers' compensation request for medical care" report signed by claimant, it states that claimant reported an accident on March 10, 1998, and stated that she injured her low back. By the question, "how did accident happen," it states "lifting - prior injury from July 95." Claimant denied that she had any injuries other than her _____ injury and said that she sought medical treatment in March 1998 because the over-the-counter pain medications she was using stopped being effective. In a December 21, 1998, letter, Dr. S stated that he was asked to perform a peer review report, that contusions typically heal within six weeks, that it appears that claimant got well because she did not seek any medical treatment, and that he does not believe that

claimant's current complaints are related to her _____ injury. In a January 5, 1999, report, Dr. H stated that claimant has been taking medication for her _____ injury, that her back has deteriorated due to the _____ injury, that claimant aggravated her prior injury every day by lifting at work, and that all of claimant's problems are due to the _____ injury. In a May 10, 1999, report, Dr. H stated that claimant's injury is the type of injury that would produce disc disruption syndrome and that claimant needs further diagnostic testing.

The parties stipulated that claimant reached maximum medical improvement on September 26, 1995, with a zero percent impairment rating. The hearing officer determined that: (1) claimant sustained a compensable injury on _____; (2) claimant's _____ back injury was a contusion to the lumbar region; (3) claimant's _____ injury "was reported as completely resolved by Dr. N; (4) claimant did not seek medical treatment again for two years and five months; (5) claimant's _____ injury is "unrelated to her current condition"; and (6) claimant's compensable low back injury is not a producing cause of her lumbar sprain and disc disruption syndrome.

The claimant contends that the evidence shows that her current problems are a continuation of her _____ injury. The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer resolves conflicts in the evidence, including the medical evidence, and may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. We conclude that sufficient evidence supports the hearing officer's findings of fact and that those findings are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We note that the hearing officer stated that claimant's _____ injury "resolved." Claimant is entitled to lifetime medical benefits for her _____ injury. The hearing officer's statement in no way affects claimant's rights in that regard.

The hearing officer's decision and order are affirmed.

Judy Stephens
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Susan M. Kelley
Appeals Judge