

APPEAL NO. 991541

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 June 28, 1999. He (hearing officer) determined that the respondent's (claimant) compensable injury of \_\_\_\_\_, included the cervical and lumbar spine and right shoulder. The appellant (carrier) appeals this determination, contending that it is against the great weight and preponderance of the evidence. The claimant replies that the decision is correct, supported by sufficient evidence, and should be affirmed.

DECISION

Affirmed.

The claimant delivered food for a catering service. She testified that on \_\_\_\_\_, she was delivering a sheet cake to a hotel. She apparently did not notice that the floor of the elevator was about a foot below floor level. When she stepped into the elevator, she began to fall and grabbed a hand railing. She said she felt immediate ankle, low back, and neck pain and pain in her right arm. She was then taken by the employer to an emergency room. The records of this visit were not introduced into evidence, but apparently only the ankle was looked at. The claimant testified that she also complained of her other pains. The carrier accepted an ankle injury, but denies the other claimed injuries. The claimant then saw Dr. S, D.C., on February 5, 1999, with complaints of right ankle, back, neck, and shoulder pain. These complaints are reflected in his medical records. The diagnoses were essentially sprains and syndromes. The carrier also referred the claimant to a clinic, where, she said, she complained of all her alleged injuries, but only the ankle was examined. The diagnosis was an ankle/foot strain. There was other evidence, sketchy at best, of involvement in at least two motor vehicle accidents in 1994 and 1997. It was the claimant's position that she had recovered from these at the time of her claimed compensable injury.

The claimant had the burden of proving that she sustained a compensable injury to her lumbar and cervical spine and the right shoulder. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Whether she did compensably injure herself in the manner alleged was a question of fact for the hearing officer to decide and could be proved by her testimony alone if found credible. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. The hearing officer considered the evidence and found the claimant credible in her assertions about the extent of her injury. In its appeal, the carrier points primarily to the lack of a mention of the extent of her injury in the earliest medical reports and the lack of medical evidence of a shoulder injury. Included in Dr. S's report is a diagnosis of cervicobrachial syndrome. We believe that this diagnosis, together with the claimant's testimony, which the hearing officer found credible, provided sufficient evidence to support the extent-of-injury determination of the hearing officer. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

For the foregoing reasons, we affirm the decision and order of the hearing officer.

---

Alan C. Ernst  
Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Gary L. Kilgore  
Appeals Judge