

APPEAL NO. 000284

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 December 21, 1999. In response to the issue at the CCH, the hearing officer determined that the scope of the \_\_\_\_\_, compensable injury of the respondent (claimant), included her left shoulder. The appellant self-insured ("carrier" herein) appeals on sufficiency grounds. The claimant responds and urges affirmance.

DECISION

We affirm.

Carrier contends the hearing officer erred in determining that claimant's compensable injury extended to her left shoulder. Carrier asserts that claimant did not mention a shoulder injury for several months; that she was not a credible witness; and that claimant had only bursitis in her shoulder, which is not part of the compensable injury. Carrier complains that claimant's MRI report was negative and that the hearing officer did not accord the proper weight to the evidence in this case.

The hearing officer summarized the facts in the decision and order. Briefly, it was undisputed that claimant sustained a compensable injury to her left hand and wrist on \_\_\_\_\_. Claimant testified that she was injured at work when she slipped and fell, breaking her fall with her left arm. Claimant said she saw several doctors, a doctor gave her a brace for her arm, and she was released to return to work. Claimant said her arm became swollen in the cast she was given, and that she returned to the doctor, who did x-ray testing. Claimant said she did tell doctors that her shoulder was bothering her when she was seen regarding her injury. Claimant said her shoulder has been hurting "since the beginning."

In a January 12, 1999 report, Dr. B stated that claimant had wrist pain with proximal shoulder and elbow pain. A February 17, 1999, left shoulder MRI report states that: (1) there is a mild supraspinous tendinopathy with associated mild peritendinitis and bursitis; and (2) there is minimal subacromial arch narrowing an supraspinous outlet impingement. In a February 17, 1999, report, Dr. R stated that claimant injured her left wrist and arm in a fall, that she also said her right arm hurts because she is compensating for her left arm injury, that she has global tenderness about her left shoulder and wrist; and that "she has positive impingement signs." Dr. R stated under "impression," among other things, "impingement syndrome, left shoulder." In a February 24, 1999, report, Dr. R said: (1) claimant's shoulder MRI was basically negative; (2) claimant made several corrections to the prior office note he dictated; (3) claimant said she saw Dr. A but she had not; and (4) claimant states that she first saw Dr. T for her injury, but she had not said that before. Dr. R said, "This lady continues to complain of global pain in her entire arm with no localizing signs. I set her up for a bone scan to rule out reflex sympathetic dystrophy." In a March 9, 1999, report, Dr. R stated:

The bone scan does confirm a significant increase of uptake and activity at the distal left radius, I have placed her into a short arm cast . . . .

In a March 11, 1999, report, Dr. H stated that he removed claimant's cast and gave claimant a splint because she complained of trouble with the cast, and then released her to light duty. In a March 17, 1999, report, Dr. R stated that: (1) claimant complained that his associate, Dr. H, sent her back to work; (2) claimant is now also complaining of pain in her neck and right arm also; (3) it is apparent that claimant never wants to work again; (4) he cannot offer her any treatment except for her occult wrist fracture; and (5) claimant is extremely histrionic and he "cannot handle her anymore." In a September 1999 report, Dr. B stated, "bone scan accompanying her is reviewed and shows uptake in the distal greater metaphysis suggestive of a fracture." In an October 1999 letter, Dr. O stated that the left shoulder impingement syndrome claimant is experiencing "is a direct result of the accident that occurred on \_\_\_\_\_ . . . ."

Ms. H, employer's workers' compensation manager, stated that claimant had a wrist sprain and that her doctors told her there was no fracture. She testified that claimant changed doctors several times when she was returned to work.

The applicable law regarding scope or extent of injury and our appellate standard of review are set forth in Texas Workers' Compensation Commission Appeal No. 950537, decided May 24, 1995; Texas Workers' Compensation Commission Appeal No. 951959, decided January 3, 1995; Section 410.165(a); Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ); and Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In this case, the hearing officer weighed the evidence and determined that claimant's injury extended to her left shoulder. The hearing officer stated that claimant was a credible witness. This extent of injury issue involved a fact question for the hearing officer, which she resolved. Appeal No. 951959, *supra*. The hearing officer could decide to believe all, none, or any part the evidence and properly decided what weight to give to the evidence in this case. Campos, *supra*. The factors complained of by carrier were for the hearing officer to consider in making her determinations in this case. After reviewing the evidence, as set forth above, we conclude that the hearing officer's determination regarding extent of injury is not so against the great weight and preponderance of the evidence as to be wrong or manifestly unjust. Cain, *supra*.

We affirm the hearing officer's decision and order.

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Judy L. Stephens  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Elaine M. Chaney  
Appeals Judge