

APPEAL NO. 000859

On March 14, 2000, 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 hearing officer resolved the disputed issues by deciding that appellant (claimant) did not sustain a compensable injury on _____, and that claimant has not had disability. Claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor. Respondent (self-insured) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

Claimant testified that on _____ he sustained an injury to his lumbar spine carrying luggage while working at a hotel. Claimant began working as a forklift driver for self-insured shortly after that injury. Claimant began treating with Dr. M, for his _____ injury in June 1998. Dr. M took claimant off work for his _____ injury for about three weeks in December 1998 and January 1999. An MRI of claimant's lumbar spine done on January 18, 1999, showed a disc herniation at L5-S1. On January 28, 1999, Dr. V, the designated doctor for the _____ injury, reported that, with regard to the _____ injury, claimant was at maximum medical improvement and assigned claimant a 16% impairment rating (IR) for impairment of his lumbar spine and lower extremities. There were statements from claimant's supervisors that, after claimant received the 16% IR, claimant said that he was unable to perform his job driving a forklift and wanted self-insured to make work accommodations for him, but that claimant did not provide self-insured with any written work restrictions from his doctor. Claimant said that on _____, he injured his thoracic spine picking up sheets of corrugated cardboard at work for about 45 minutes. One of claimant's supervisors indicated that claimant did pick up corrugated cardboard for about 20 minutes as part of his work activities on _____. Claimant said he has not worked since March 4, 1999. Dr. M reported in April 1999 that claimant sustained an injury while working at employer on _____, when he lifted an object from ground level for a prolonged period of time and provided diagnoses related to claimant's lumbar region. Dr. M referred claimant to Dr. P who gave a diagnosis of post-traumatic lumbosacral facet pain syndrome associated with S-1 radicular pain. Dr. MA noted in August 1999 that claimant was having thoracic back pain. A radiologist reported that an MRI of claimant's thoracic spine done in November 1999 showed mild degenerative disc disease causing mild spinal canal stenosis with no evidence of disc herniations, cord compression, or compression fractures. Dr. MA reported in December 1999 that claimant was complaining of thoracic pain but that surgery was not indicated. Dr. C reported in February 2000 that he could not state whether the injury of _____, resulted in claimant's present symptoms.

Injury, compensable injury, and disability are defined in Sections 401.011(26), (10), and (16), respectively. Claimant had the burden to prove that he was injured in the course

and scope of his employment and that he had disability. The hearing officer found that claimant did not sustain a work-related injury to his back while working for employer on _____, and concluded that claimant did not sustain a compensable injury on _____, and that he has not had disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves conflicts in the 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. Without a compensable injury, claimant would not have disability as a result of his claimed injury of _____. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Susan M. Kelley
Appeals Judge