

APPEAL NO. 001289

On May 15, 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.* The hearing officer resolved the disputed issue by deciding that respondent's (claimant) compensable injury of _____, extends to and includes claimant's low back and his reflex sympathetic dystrophy (RSD). Appellant (carrier) requests that the hearing officer's decision be reversed and that a decision be rendered in its favor. Claimant requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

It is undisputed that on _____, claimant sustained a compensable injury when his left ankle was crushed between a forklift and a steel beam. Claimant has had multiple surgeries to his left ankle as a result of his injury and it is undisputed that he walks with an altered gait because of the left ankle injury.

Dr. H wrote in August 1999 that claimant's back pain is associated with musculoskeletal changes which are the result of a compromised posture and gait that claimant is required to use and is, therefore, a function of the initial injury which is work related. Dr. H wrote in September 1999 that he had explained to claimant that his back pain is a result of the injury to his foot and ankle and has been caused by the antalgic posture and gait he uses, but that claimant does not have an injury to his spine. Dr. D, claimant's treating doctor, wrote in September 1999 that findings at the time of claimant's operation in September 1999 included left lower extremity RSD.

Dr. D wrote in April 2000 that claimant suffers from RSD of the left foot and ankle; that Dr. B had diagnosed claimant as having lumbar facet arthropathy with superimposed lumbosacral biomechanical pain as a result of altered ambulation mechanics secondary to claimant's RSD; that Dr. B had written that claimant's lower back discomfort is directly related to his work injury; and that he, Dr. D, agrees with Dr. B and believes that claimant's back pain and facet arthropathy are related to his gait abnormality. In March 2000, Dr. B wrote that claimant's RSD had improved by 50% but that he continued to have significant mechanical lumbar pain aggravated by lumbar facet arthropathy as a result of altered ambulation mechanics and that the carrier's denial of treatment defies common medical sense "as this is all connected to his initial work injury."

Dr. P reviewed claimant's medical records at carrier's request and he wrote in November 1999 that "gait mechanics can certainly cause some ligamentous issues in the lumbosacral and pelvic articulations, and can indeed cause SI joint and some facet issues. This is not unusual and actually is a relatively common finding in individuals with subacute changes in gait mechanics." Dr. P added that he would expect that any back problems claimant has should settle down when his ankle gets better and that claimant's back "has

not been injured per se, but does appear appropriately symptomatic secondary to gait mechanics from his original injury of his ankle.” Dr. P also noted that a tentative diagnosis of RSD had been established by claimant’s surgeon but that it had not been clearly established.

The hearing officer found that claimant’s RSD naturally resulted from claimant’s compensable injury and that claimant’s lower back condition naturally resulted from claimant’s compensable injury. The hearing officer concluded that the _____, compensable injury extends to and includes claimant’s low back and RSD. Carrier contends that the medical records reflect that claimant has RSD of the ankle and do not indicate that claimant has RSD of the back. The medical records do indicate that claimant has RSD of the left lower extremity but that is not a reason to reverse the hearing officer’s decision that the compensable injury extends to and includes claimant’s RSD. Carrier contends that the evidence shows that claimant has no back injury, that claimant experiences back pain from his altered gait, and that mere pain is not compensable. There is some medical evidence that claimant’s back pain is associated with musculoskeletal changes resulting from his altered gait and that claimant has lumbar facet arthropathy with lumbosacral biomechanical pain as a result of his altered ambulation. Thus we cannot agree that claimant’s back condition is limited to mere pain.

The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence. In Western Casualty and Surety Company v. Gonzales, 518 S.W.2d 524, 526 (Tex. 1975), the court noted that the site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury and that the full consequences of the original injury, together with the effects of its treatment, upon the general health and body of the worker are to be considered. In Texas Workers’ Compensation Commission Appeal No. 93414, decided July 5, 1993, the Appeals Panel affirmed a hearing officer’s decision that a knee injury caused a subsequent back injury by requiring the injured employee to alter his gait, when there was conflicting evidence as to causality. 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:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge