

APPEAL NO. 001494  
FILED AUGUST 11, 2000

On May 4, 2000, a contested case hearing (CCH) was held in \_\_\_\_\_, Texas, with \_\_\_\_\_ presiding as the hearing officer. 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 issue by deciding that respondent's (claimant) compensable injury of \_\_\_\_\_, includes depression and high blood pressure. Appellant (self-insured) requests that the hearing officer's decision be reversed and that a decision be rendered in its favor. No response was received from claimant.

DECISION

Affirmed.

The parties stipulated that claimant sustained a compensable low back injury on \_\_\_\_\_. Claimant testified that she felt a pop in her back on that day when she lifted a five-gallon water container at work. At the time, claimant was working as a payroll clerk for self-insured. Claimant said that prior to her \_\_\_\_\_ injury she had had high blood pressure for four or five years that was controlled by medication. She said her family has a history of high blood pressure. She said that she had an ulcer in 1988 when she was going through a divorce. She said she is presently in her third marriage.

Claimant said that she had a mental trauma claim on August 21, 1998, while working for self-insured but that when she returned to work two weeks later she was okay. She said her primary care physician, (Dr. D), told her she had stress and that she saw him again about a month later. Dr. D wrote in March 2000 that he saw claimant on August 21, 1998, for chest pain and hypertension and that claimant had a stress-related elevation of her blood pressure. Claimant said that her \_\_\_\_\_, mental trauma claim had to do with a poor work evaluation by a coworker. Medical records dated after claimant's \_\_\_\_\_, back injury mention a prior mental trauma claim in \_\_\_\_\_, but neither the ombudsman nor carrier's attorney had records from the Texas Workers' Compensation Commission (Commission) or the self-insured that showed that a workers' compensation claim for a mental trauma injury was actually filed with self-insured or the Commission.

On October 22, 1998, (Dr. S) diagnosed claimant with a back strain. Claimant began treating with (Dr. P) on October 27, 1998, and he diagnosed claimant with a lumbar sprain and a thoracic sprain. Medical records reflect that claimant continued to have back pain and that an MRI in December 1998 showed a disc bulge at L3-4. An EMG done in January 1999 was consistent with lumbar radiculopathy due to neural impingement at multiple levels. On \_\_\_\_\_, a psychologist diagnosed claimant

as having pain disorder associated with both psychological factors and lower back pain, and severe depression. A February 1999 medical report states that claimant continued to complain of lumbar pain and lower extremity radiculitis. Medical records reflect that on March 1, 1999, claimant began a work-conditioning program for her \_\_\_\_\_, back injury. An April 1999 medical report states that claimant developed dizziness and increased blood pressure while in the work-conditioning program and another medical report in the same month states that (Dr. T) was keeping claimant out of the work hardening program until her blood pressure was under control.

Claimant changed treating doctors to (Dr. O) who referred her to (Dr. W) for a psychological evaluation. (Dr. F), the designated doctor, wrote in June 1999 that he could not adequately assess claimant's impairment rating because of claimant's state of severe depression.

Dr. W evaluated claimant in July 1999 and she wrote that "with the pain and exercises her blood pressure was noted to be elevated so that she required more comprehensive treatment of her blood pressure," and that "[claimant] has had increase symptoms of Secondary Depression and Anxiety which require treatment in my opinion. These symptoms are due to her job injuries. Earlier she had some stress on the job, but apparently was off two weeks, but after this two weeks interval and possibly some medications she was markedly improved and returned to work without difficulty." In February 2000, Dr. O referred claimant to (Dr. WA) for "2<sup>nd</sup> opinion re blood pressure and depression as relates to work injury \_\_\_\_\_." No report from Dr. WA is in evidence.

(Dr. L) reported in March 2000 that claimant should be treated for a "psychiatric disturbance associated with her injury and ongoing pain . . . ."

Claimant said that her workers' compensation benefits for her \_\_\_\_\_, work injury were stopped in May 1999, that she was terminated from employment in September 1999, that her sister died in November 1999, that her house was partially burned in November 1999, and that her father died in January 2000.

The hearing officer wrote in his Statement of the Evidence that the medical records indicated that claimant had high blood pressure and depression prior to her \_\_\_\_\_, injury, but that the medical documents convinced him that claimant's high blood pressure and depression were aggravated by the \_\_\_\_\_, compensable injury. The hearing officer decided that claimant's compensable injury of \_\_\_\_\_, includes high blood pressure and depression. Self-insured contends that no credible evidence supports the hearing officer's decision. The aggravation of a preexisting condition (in the course and scope of employment) is a compensable injury for purposes of the 1989 Act. Peterson v. Continental Casualty Company, 997 S.W.2d 893 (Tex. App.-Houston [1<sup>st</sup> Dist.] 1999, no pet. h.). 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.

The hearing officer is the judge of the weight and credibility of the evidence. Section 410.165(a). In Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995, the Appeals Panel noted that the hearing officer resolves conflicts in the evidence and determines what facts have been established from the evidence presented; that as an appellate tribunal, the Appeals Panel is not a fact finder and does not normally pass upon the credibility of the witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result; that that is so even though, were we fact finders, we might have drawn other inferences and reached other conclusions; and that when reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. In the instant case, 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

CONCURRING OPINION:

I concur. However, see Texas Workers' Compensation Commission Appeal No. 960213, decided March 8, 1996, for a decision in which a hearing officer considered similar evidence and concluded that the claimant's high blood pressure was not a result of the compensable injury and the Appeals Panel affirmed that decision.

---

Tommy W. Lueders  
Appeals Judge