

APPEAL NO. 001869

On July 13, 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 issues by deciding that the appellant's (claimant) compensable injury of _____, is a producing cause of the claimant's disc herniation and radiculopathy at L3-4; that the claimant's compensable injury of _____, is not a producing cause of the claimant's cervical and/or lumbar degenerative disc disease; that the claimant's compensable injury of _____, is not a producing cause of the claimant's right carpal tunnel syndrome (CTS); and that the claimant's spinal surgery recommended by the claimant's treating doctor and surgeon, Dr. B, is approved. The claimant requests that the hearing officer's decision that the compensable injury of _____, is not a producing cause of his cervical and/or lumbar degenerative disc disease or of his right CTS be reversed and that a decision be rendered in his favor with regard to the degenerative disc disease and CTS. The respondent (carrier) requests that the hearing officer's decision be affirmed. There is no appeal of the hearing officer's decision that the claimant's compensable injury of _____, is a producing cause of the claimant's disc herniation and radiculopathy at L3-4 and that the spinal surgery recommended by Dr. B is approved.

DECISION

Affirmed.

The claimant said that he has worked for the employer since 1978 and that he is a maintenance worker. According to the claimant's answers to interrogatories, he sustained a work-related back injury in _____, a work-related neck injury in _____, and a work-related neck injury in _____. According to a medical report, the claimant had a lumbar laminectomy at L4-5 in 1982. The claimant said that he had no problems with his back after his surgery and that he returned to work. A November 1995 cervical MRI report noted degenerative changes from C4 to C7. A November 1995 EMG report for testing of the claimant's right upper extremity noted an incidental finding of mild CTS. Dr. T noted in November 1995 that, clinically, the claimant does not have CTS and in January 1996 noted that, with regard to the EMG finding of CTS, the claimant was not symptomatic. The claimant said that he had no problems with his hands and that he was not treated for CTS. Dr. T noted in January 1996 that the claimant could return to regular work. An April 1997 cervical x-ray report noted that the claimant has multiple degenerative changes.

Dr. B noted in May 1997 that the claimant has cervical radiculopathy and in May 1997 noted that the claimant could return to work without restrictions. Dr. B noted in October 1997 that the claimant had a recurrence of cervical radiculopathy and in November 1997 noted that a cervical myelogram showed lesions at C3-4 and C5-6. In February 1998, the claimant underwent cervical surgery at C3-4 and C5-6 that was performed by Dr. B. The claimant said that he had no neck problems after his cervical surgery. Dr. B released the claimant to full-duty work in June 1998 and the claimant returned to work.

The claimant testified that on _____, he was performing his work duties fixing a machine, when the board he was standing on slipped out from under him. He said that he grabbed onto a beam with his right hand but was unable to keep from falling, that his right hand was jerked when he fell, and that he fell on his back onto the shafts of the machine. He said that after that accident he had lower back pain that went down his legs, more on the right side; neck pain; right arm pain; and pain in his hands. The claimant said that he had not had those symptoms prior to his _____, accident. It is undisputed that the claimant sustained a compensable injury on _____. The carrier accepted liability for a cervical sprain/strain and a lumbar sprain/strain. The issues at the CCH were whether the claimant's _____, injury constitutes a producing cause of the claimant's cervical and lumbar degenerative disc disease, the claimant's radiculopathy and disc herniation at L3-4, and the claimant's right CTS, and whether the proposed spinal surgery should be approved.

Dr. B, who performed the claimant's cervical surgery in 1998 and who is the claimant's treating doctor for his _____, injury, noted on _____, that the claimant had fallen at work that day and was complaining of neck pain radiating down his right arm and low back pain radiating down his right leg. Dr. B stated that his impression is that the claimant has a back and neck injury and he took the claimant off work. The claimant said that he has not worked since his _____, injury. Dr. B wrote on December 13, 1999, that the claimant's x-rays showed degenerative disc disease of the cervical and lumbar spine. Dr. D reported that a lumbar MRI done on January 7, 2000, showed disc space narrowing at L4-5 and a disc bulge at L3-4, and that a cervical MRI done the same day showed evidence of the prior surgery at C3-4 and C5-6 and minimal spondylosis at C6-7.

Dr. B wrote on January 26, 2000, that the claimant's symptoms indicated L3-4 radiculopathy, that the claimant had pain from his elbow to his fingers on the right side, and that an EMG would be done. Dr. B wrote on February 10, 2000, that the claimant has a herniated disc at L3-4 and degenerative disc disease and narrowing at L4-5, and that he is recommending an anterior lumbar discectomy and interbody fusion at L3-4 and L4-5 with instrumentation. Dr. B wrote in February 2000 that "this is related to the injury that happened in December 1999" and that "he [claimant] may have a pre-existing condition, but he did not have any symptoms, and all of his symptoms started after this injury." Dr. B wrote in June 1999 that "even if there is a pre-existing condition, it was re-aggravated by this new injury and was asymptomatic prior to it." Dr. A reported that an EMG done in February 2000 showed bilateral CTS, mild involvement of the ulnar nerve, and C5-6 radiculopathy.

Dr. TR reviewed the claimant's medical records at the carrier's request and wrote in February 2000 that it appeared that on _____, the claimant sustained sprain/strain injuries of the cervical and lumbosacral spine superimposed on significant arthritic abnormalities and that the abnormalities at L3-4 and L4-5 preexisted the _____, injury. Dr. S examined the claimant at the carrier's request in March 2000 and wrote that the _____, injury resulted in soft tissue injuries at multiple locations, and that the claimant contused and possibly strained and sprained his lumbosacral region and

sustained sprain and strain injuries in the cervicobrachial and right upper extremity regions. Dr. S also wrote that the claimant's radiographic studies showed chronic degenerative changes in the cervical and lumbar regions that preexisted the claimant's _____, injury and that it was evident from the prior records that the median neuropathy at the wrist preexisted the December 1999 injury.

Dr. AN, the carrier's second opinion doctor on spinal surgery, wrote in April 2000 that he did not concur with lumbar surgery proposed by Dr. B. Dr. C, the claimant's second opinion doctor on spinal surgery, wrote in May 2000 that he agrees with the lumbar surgery recommended by Dr. B.

There is no appeal of the hearing officer's decision that the claimant's compensable injury of _____, is a producing cause of the claimant's radiculopathy and disc herniation at L3-4. There is also no appeal of the hearing officer's decision approving the spinal surgery recommended by Dr. B and concurred with by Dr. C. The carrier is liable for the medical costs related to the spinal surgery recommended by Dr. B. Section 408.026.

The claimant appeals the hearing officer's findings that the claimant's compensable injury of _____, does not extend to or include cervical and/or lumbar degenerative disc disease, and that the compensable injury of _____, does not extend to or include right CTS. The claimant also appeals the hearing officer's conclusions that the claimant's compensable injury of _____, is not a producing cause of his cervical and/or lumbar degenerative disc disease or of his right CTS. There is conflicting evidence in this case regarding the appealed issues. 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 the conflicts in the evidence. 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:

Thomas A. Knapp
Appeals Judge

Judy L. Stephens
Appeals Judge