

## APPEAL NO. 001926

On August 1, 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 the respondent's (claimant) compensable injury includes an injury to the lumbar spine. The appellant (carrier) requests that the hearing officer's decision be reversed and that a decision be rendered in its favor. The claimant requests that the hearing officer's decision be affirmed.

### DECISION

Affirmed.

The claimant testified that on \_\_\_\_\_, she was helping a coworker carry a pallet when the back of her heel got caught on another pallet and she fell to the concrete floor on her right hip and buttocks. The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. The claimant said that two or three days after her accident, she had pain, tingling, and numbness from her right hip down to her right foot. The claimant began treating with Dr. E on August 7, 1998, and he noted that the claimant's chief complaint was right foot/heel pain and that the claimant had initially had some right buttock pain which had improved. Dr. E diagnosed the claimant as having right planter fascial strain and/or tear and right achilles tendinitis. The claimant said that she told Dr. E that her right hip was sore and that it hurt all the way down her right side. She said that Dr. E told her that she had right hip bursitis that would resolve. Several of Dr. E's reports state that the claimant denied having lower back pain or lower extremity problems.

Dr. E prescribed a short leg walking cast. The claimant said that on \_\_\_\_\_, she tripped while walking in her living room because the shoe that she was given to wear with the walking cast was too big. The claimant said that she did not reinjure herself on \_\_\_\_\_, and that she did not have any change in her condition. However, the claimant went to a hospital emergency room on \_\_\_\_\_, where Dr. E noted that the claimant stated that she had tripped with her short leg cast shoe and fell on her right knee and jarred her right lower back. Dr. E diagnosed the claimant as having a right lumbar strain, which he stated was not related to her prior workers' compensation diagnoses of trochanteric bursitis and plantar fasciitis.

Dr. M reported that an EMG and nerve conduction studies done in June 1999 revealed L5 radiculopathy on the right. Lumbar x-rays done in August 1999 showed spondylolisthesis of L5 over S1. Dr. P saw the claimant in August 1999 and he wrote that the claimant's low back pain is probably mechanical in origin and recommended that the claimant see a spine surgeon. A lumbar MRI done in October 1999 showed anterolisthesis of L5 on S1 with no demonstrated encroachment of the L5 nerve roots. In November 1999, Dr. S recommended that the claimant undergo lumbar spinal surgery for a herniated lumbar disc.

The carrier appeals the hearing officer's findings that on \_\_\_\_\_, the claimant sustained damage or harm to the physical structure of her lumbar spine during the course and scope of her employment, and that on \_\_\_\_\_, the claimant exacerbated the damage or harm to her lumbar spine by falling while using a medical appliance which was prescribed to her as the result of her compensable foot injury. The carrier also appeals the hearing officer's conclusion that the claimant's compensable injury includes an injury to her lumbar spine.

There is conflicting evidence in this case. The hearing officer is the sole 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 and may believe all, part, or none of the testimony of any witness. 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.

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Robert W. Potts  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge