

APPEAL NO. 002061

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 8, 2000. The hearing officer determined that the _____, compensable injury of appellant (claimant) did not extend to spondylosis, deconditioning syndrome, chronic lumbar syndrome, or degenerative osteoarthritis and that respondent (carrier) did not waive the right to contest the compensability of the spondylosis and chronic lumbar syndrome. Claimant appealed the determination regarding extent of injury, only regarding the claimed deconditioning syndrome and chronic lumbar syndrome. Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contends that the hearing officer erred in determining that his compensable injury did not extend to deconditioning syndrome and chronic lumbar syndrome. He asserts that: (1) Dr. K included impairment for chronic lumbar syndrome and stated that the mechanism of injury is repetitive bending and lifting of bricks; (2) Dr. G did not examine claimant and his report should be discounted; (3) claimant's treating doctor, Dr. P, said that "deconditioning syndrome," is an effect of claimant's injury and that the "chronic lumbar syndrome" is caused by the compensable injury; and (4) "chronic lumbar syndrome" is the same as "six months of documented pain" under Table 49 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association, and this was included in the impairment rating certified by Dr. PA.

The hearing officer summarized the facts in the decision and order. Briefly, claimant testified that his work for (employer) from approximately 1992 to 1997 involved picking up bricks and throwing them into a machine that packs bricks. Claimant said his back began to hurt in _____ or _____. Claimant said the pain never went away. Claimant seemed confused by the questions at the hearing. He agreed with his attorney and indicated that he told his manager that he had an "arthritic condition aggravated by years of bending the same way." Claimant's attorney asserted at the hearing that carrier had accepted a repetitive trauma injury. Claimant's attorney asserted at the hearing that the Medical Review Division of the Texas Workers' Compensation Commission would not determine whether a chronic pain program would be approved for claimant unless the Hearings Division determined whether claimant had a repetitive trauma or chronic injury versus a specific injury. The attorney for carrier stated at the hearing that carrier accepted a _____, low back strain injury.

The applicable law and our appellate standard of review are set forth in Texas Workers' Compensation Commission Appeal No. 000561, decided May 4, 2000. In this case, the hearing officer determined that claimant's _____, injury was a specific

injury rather than a repetitive trauma injury. The hearing officer also determined that this injury did not extend to include deconditioning syndrome and chronic lumbar syndrome.

The evidence conflicted regarding whether claimant sustained a specific injury or repetitive trauma injury. Dr. P indicated in April 1999 that claimant sustained a “discrete injury event” and in March 1999 Dr. P said that claimant had chronic low back pain related to a “specific work-related injury.” It appears that claimant complained of repetitive trauma to some medical care practitioners and told others about a specific incident involving a “pop” in or “wrenching” of his back. In any case, the hearing officer determined that the deconditioning syndrome and chronic lumbar syndrome are ordinary diseases of life, which is supported by the medical evidence from Dr. G, who stated that claimant had a soft-tissue injury that would have healed within months. Additionally, in July 2000, Dr. PA stated that claimant’s chronic lumbar complaints are related to an ordinary disease of life and indicated that he did not think the deconditioning syndrome was a part of the compensable injury.

The hearing officer judged the credibility of this evidence and determined what weight to give to the medical reports in this case. Extent of injury is a fact question for the hearing officer. Texas Workers’ Compensation Commission Appeal No. 001909, decided September 27, 2000. The hearing officer could decide to believe all, none, or any part of the evidence. After reviewing the evidence, we conclude that the hearing officer’s determination regarding extent of injury is not so against the great weight and preponderance of the evidence as to be wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer’s decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts

Appeals Judge