

APPEAL NO. 002270

On September 6, 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 _____, does not extend to an injury to his back and that the claimant did not have disability after November 2, 1999. The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor on the issues of extent of injury and disability. The respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that on _____, he was working as a backhoe operator for the employer. He said that after loading the backhoe onto a trailer, he slipped while getting off the backhoe and fell three feet, landing on the trailer. Some medical reports reflect that the claimant hit his left thigh, left hip, and lower back when he fell. The claimant said that when he saw Dr. P in November 1999, he had pain in the back of his left thigh that went down to his foot; that when he saw a doctor at (C clinic) in December 1999 he had pain in the back of his left thigh that went down to his foot; that on February 16, 2000, he woke up with leg pain and went to C clinic where he was prescribed therapy; that his low back began hurting after he pushed weights in therapy; that he had a lumbar MRI done that showed lumbar disc herniations; that Dr. H told him he needs back surgery; that Dr. E has recommended epidural steroid injections; that he last worked on March 20, 2000; and that he has been unable to obtain and retain employment at his preinjury wage since March 20, 2000. An employer record reflects that the claimant returned to work on November 2, 1999.

ML, claimant's coworker, testified that he saw the claimant slip and fall about three feet onto the trailer on _____.

In a record dated November 4, 1999, Dr. P diagnosed the claimant as having a contusion of the left hip/thigh and indicated that he had a question as to whether the claimant had sciatic nerve trauma. March 2000 C clinic records note complaints of left thigh pain. A March 28, 2000, lumbar MRI showed herniated discs at L4-5 and L5-S1. On April 5, 2000, Dr. B diagnosed the claimant as having lumbar radiculitis.

Dr. PA, began treating the claimant on April 5, 2000, for complaints of lumbar and left leg pain. Dr. PA testified that in his opinion the claimant ruptured his discs at L4-5 and L5-S1 when he fell at work on _____, and that caused referred pain to the claimant's leg. Dr. PA testified that the claimant is unable to work because of his work-related back injury.

Dr. BA examined the claimant at the request of the Texas Workers' Compensation Commission in June 2000. Dr. BA noted that medical records he had available for review

were from February 2000 to the date of the examination, including the MRI, but that he did not have the medical records from November 1999 through January 2000. Dr. BA opined that based on the medical records he reviewed, the claimant's low back condition did not appear to be related to his injury of _____. Dr. BA indicated that information in the medical records he did not have for review could confirm or change his opinion, but that since he did not have those records, he could not state an opinion. However, as noted, Dr. BA did state an opinion.

It is undisputed that the claimant sustained a compensable injury when he fell at work on _____. The carrier apparently accepted an injury to the claimant's left thigh. The issues were whether the compensable injury extends to a back injury and whether the claimant has had disability. The claimant had the burden to prove the extent of his compensable injury and that he had disability as defined by Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer found that the claimant did not injure his back in a fall at work on _____, and that the claimant's _____, left thigh injury did not prevent the claimant from earning his preinjury wage after November 2, 1999. The hearing officer concluded that the claimant's back condition is not part of the compensable injury and that the claimant's _____, left thigh injury did not cause disability after November 2, 1999. The conflicting evidence in this case was for the hearing officer to resolve as the trier of fact. When reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if the decision is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. 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:

Tommy W. Lueders
Appeals Judge

Philip F. O'Neill
Appeals Judge