

## APPEAL NO. 002294

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 September 5, 2000. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_ did not extend to an injury to the claimant's low back. The claimant appealed, asserting that the hearing officer's decision was against the great weight and preponderance of the evidence and incorrect as a matter of law. The respondent (carrier) did not respond.

### DECISION

Affirmed.

The pertinent facts of the case are undisputed. The claimant sustained a compensable right knee injury on \_\_\_\_\_. On \_\_\_\_\_, the claimant's injured knee locked and buckled as the claimant was stepping into his van and the claimant slipped, striking his back on the running board. The claimant testified that the fall resulted in an injury to his low back.

In Texas Workers' Compensation Commission Appeal No. 970788, decided June 9, 1997 (Unpublished), we discussed the concept of follow-on injuries related to falls occasioned by compensable injuries. In that case, we stated:

Section 401.011(26) defines injury as "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." A follow-on injury may itself be compensable if the subsequent or follow-on injury naturally results from the prior compensable injury. Maryland Casualty Co. v. Sosa, 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e.). This is generally a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93672, decided September 16, 1993. In Texas Workers' Compensation Commission Appeal No. 92553, decided November 30, 1992, the Appeals Panel approvingly cited Maryland Casualty Company v. Rogers, 86 S.W.2d 867 (Tex. Civ. App.-Amarillo 1935, writ ref'd) for the proposition that "the fact that an injury may affect a person's resistance will not mean that a subsequent injury outside the workplace is compensable, where the subsequent disease or infection is not one which flowed naturally from the compensable injury." In Texas Workers' Compensation Commission Appeal No. 961055, decided July 19, 1996, and in Texas Workers' Compensation Commission Appeal No. 94067, decided February 28, 1994, the Appeals Panel discussed numerous cases where a knee gave way or a leg buckled with resulting falls, but the injury sustained in the fall was not considered a compensable follow-on injury because it did not naturally result from the original injury.

In Texas Workers' Compensation Commission Appeal No. 950524, decided May 19, 1995, the claimant sustained a compensable knee injury. A little over a year later, the claimant bent down to check an oil leak in a lawn mower. As he did so, the knee gave way and he fell into a wall. The hearing officer found the resulting neck and shoulder injury causally related to the original knee injury and compensable. The Appeals Panel reversed and rendered a decision that the injuries resulting from the fall were not compensable. After an extensive discussion of prior precedent, the decision noted that in cases where compensability of a follow-on injury was found, there was "a direct flow of events in showing a causal relationship," between the two injuries. In that case, however, there was "a distinct, nonwork-related activity involved in the subsequent injury, the injury is to a distinctly different body part, there is a lengthy period of time between the injury and the claimed subsequent injury, there was at most only a degree of weakening or lowered resistance, and there is a lack of reasonable medical probability evidence establishing the necessary causation (as opposed to a 'but for' analysis . . . ). In the case we now consider, the hearing officer was not persuaded by the claimant's evidence that her shoulder injury naturally flowed from her compensable lumbar injury.

The Appeals Panel then affirmed the hearing officer's decision that the subject injury was not a compensable follow-on injury. This case is substantially similar to the cases noted by the Appeals Panel in Appeal No. 970788, *supra*. The hearing officer's decision in this matter is consistent with applicable precedent.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgement for his. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994. (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

For the foregoing reasons, we affirm the decision and order of the hearing officer.

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Kenneth A. Huchton  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Tommy W. Lueders  
Appeals Judge