

APPEAL NO. 002647

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 et seq. (1989 Act). On October 17, 2000, a hearing was held. The hearing officer resolved the disputed issue by deciding that:

The respondent's (claimant) compensable injury of _____, is a producing cause of the claimant's herniated disc at L3-4.

The appellant (carrier) appealed. No response was received from the claimant.

DECISION

Affirmed.

The claimant sustained a compensable lower back injury on _____, and, as a result of that injury, had three back surgeries. The first surgery was a discectomy at L5-S1 for a herniated disc at that level, the second surgery was a fusion at L5-S1 for a recurrent herniated disc at that level, and the third surgery was a fusion at L4-5 for a herniated disc at that level. Dr. A, who is the claimant's treating doctor and surgeon, opined that the herniated disc at the L3-4 level is a direct result of the herniated disc at the L4-5 level. Dr. A explained that the fusion at the L4-5 level and the fusion at the L5-S1 level placed a tremendous amount of stress on the L3-4 level and that, within all reasonable medical probability, the L3-4 herniated disc is a result of the "stress added motion at the segment above the non-motion segment."

In Western Casualty and Surety Company v. Gonzales, 518 S.W.2d 524, 526 (Tex. 1975), the court stated: "The site of the trauma and its immediate effects are not, however, necessarily determinative of the nature and extent of the compensable injury. The full consequences of the original injury, together with the effects of its treatment, upon the general health and body of the workman are to be considered." Although there is conflicting evidence in this case, Dr. A's opinion supports the hearing officer's decision in favor of the claimant on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder 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 against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Philip F. O'Neill
Appeals Judge