

## APPEAL NO. 002753

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. §401.001 *et seq.* (1989 Act). On November 8, 2000, a hearing was held. The hearing officer decided that the respondent's (claimant) compensable injury of \_\_\_\_\_, included an injury to the lumbar spine and that the claimant had disability from August 12, 2000, through the date of the hearing. The appellant (carrier) appealed, asserting that the hearing officer's decision that the claimant sustained a lumbar injury was incorrect as a matter of law and that the hearing officer's decision on extent-of-injury and disability were also against the great weight and preponderance of the evidence. The claimant responded that the decision was supported by the evidence and should be affirmed.

### DECISION

Affirmed as reformed.

The claimant sustained a compensable injury on \_\_\_\_\_, when she slipped from a stool to the floor, landing in a sitting position. The claimant was taken to the emergency room where a fractured coccyx was diagnosed. The claimant was off work for two days, then began to see her family doctor, Dr. L. On June 1, 2000, Dr. L diagnosed a lumbar strain and took the claimant off work. On June 30, 2000, Dr. L allowed the claimant to return to work on restricted duty of no lifting over 20 pounds and working a maximum of four hours per day. The claimant then went back to work on the restricted duty until August 12, 2000, when she was taken off work completely by her new treating doctor, Dr. W. Although she had recently been released by Dr. W to resume sedentary duty, she had not returned to work as of the date of the hearing.

The carrier argues that the hearing officer erred as a matter of law because an MRI failed to reveal signs of disc herniations, bulges, fractures, or spondylosis in the lower back and, therefore, there is no damage or harm to the physical structure of the claimant's low back as a result of the incident of \_\_\_\_\_. We disagree. Simply because there is a diagnostic test which fails to reveal specific types of damage or harm does not rule out the existence of damage or harm to the physical structure of the body. The claimant has been diagnosed by several doctors, including the carrier's own independent medical examination doctor, as having sustained a strain/sprain of the lumbar spine. The carrier's assertion that the hearing officer erred, as a matter of law, in finding that there was damage or harm to the physical structure of the body (an injury) is without merit.

The hearing officer did not err in determining that the claimant's lumbar injury was a result of the \_\_\_\_\_, compensable injury. There are several medical reports in the record which connect the lumbar injury to the event leading to the undisputed coccyx injury. The claimant's testimony also establishes a causal connection between the fall of \_\_\_\_\_, and the onset of the symptoms of the lumbar injury. The hearing officer's factual determination that the claimant's compensable injury on \_\_\_\_\_, includes the injury to the lumbar spine is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer did not err in finding that the claimant had continued disability from August 12, 2000, through the date of the hearing. However, we note that the issue presented and the presentation of the parties presupposed that the claimant had disability in the period from the date of injury through August 11, 2000, but that the hearing officer's decision could be misinterpreted to mean that the only period of disability was from August 12, 2000, through the date of the hearing. We therefore reform Conclusion of Law No. 4 of the hearing officer's decision to read as follows:

4. The claimant continued to have disability as a result of the \_\_\_\_\_, compensable injury from August 12, 2000, through the date of the Contested Case Hearing.

The decision and order of the hearing officer are affirmed as reformed.

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Kenneth A. Huchton  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Judy L. Stephens  
Appeals Judge