

APPEAL NO. 002953

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 November 29, 2000. The hearing officer held that the respondent's (claimant) reflex sympathetic dystrophy (RSD) was part of her compensable injury of _____.

The appellant (carrier) has appealed, questioning both the existence of RSD and that it represented a manifestation of the claimant's compensable injury. There is no response from the claimant.

DECISION

We affirm the hearing officer's decision.

Pertinent facts. On _____, a flatbed dolly loaded with products that the claimant was restocking at a theater concession stand ran over her left foot. Swelling and pain became more, not less, intense. The claimant said that this spread to her right leg as well, and had been diagnosed by Dr. N as RSD, also known as Complex Regional Pain Syndrome (CRPS). The claimant said that she had been diagnosed with diabetes 10 years earlier, and while she had used insulin briefly at that time, had since controlled her disease through diet.

A doctor for the carrier, Dr. G, did not examine the claimant but concluded from her medical records that she in fact had peripheral neuropathy related to her diabetic condition. Likewise, Dr. C found in a review of records that various indicators of RSD were lacking in the claimant's documented symptoms. A doctor appointed by the Texas Workers' Compensation Commission, Dr. H, opined that the claimant in fact had type I RSD (CRPS). Dr. H's examination lasted around 75 minutes and consisted of interviews and a physical examination. The notes of his exam, however, documented that the claimant's calves were symmetrical, there was no coldness or abnormal warmth, and that range of motion was normal in the ankle and digits. There was mild swelling of both feet. Dr. H said that there were no tests by which one could evaluate whether the claimant's symptoms were more related to peripheral neuropathy or RSD.

The hearing officer did not err in finding that the claimant's bilateral lower extremity RSD was part of the compensable injury because there is sufficient evidence to support the decision. While another finder of fact may have inferred that Dr. H's report was somewhat equivocal, an appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact,

even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ). Accordingly, we affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Philip F. O'Neill
Appeals Judge