

APPEAL NO. 011661
FILED AUGUST 8, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case returns after having been remanded by our decision in Texas Workers' Compensation Commission Appeal No. 010508, decided April 9, 2001. In that decision we affirmed the determination of hearing officer made following a contested case hearing held on February 6, 2001, that the respondent's (claimant) spinal stenosis was aggravated by his compensable injury of _____. However, we remanded for the hearing officer to determine whether the claimant's lumbar radiculopathy was likewise aggravated by the compensable injury since the hearing officer had added the latter issue but failed to address it in his earlier decision. Upon remand the parties determined that another hearing was not necessary and submitted their respective cases on the record of the February 6, 2001, hearing. In his decision on remand the hearing officer determined that the claimant's lumbar radiculopathy was aggravated by the compensable injury of _____. The appellant (carrier) has requested our review for evidentiary sufficiency. The claimant's response urges the sufficiency of the evidence to support an affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's lumbar radiculopathy was aggravated by the compensable injury of _____. The pertinent evidence is set out in Appeal No. 010508. As is stated in that decision, the claimant's treating doctor maintained that both the spinal stenosis and the spinal radiculopathy were aggravated by the compensable injury. Two other doctors stated that the claimant's spinal injuries were caused by the claimant's fall when the chair he was sitting in collapsed. The carrier introduced evidence tending to show that the spinal conditions were preexisting, degenerative, and not aggravated by the compensable injury.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and determines what facts have been proven (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). We are satisfied that the evidence is sufficient to support the challenged determination. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge