

APPEAL NO. 012299
FILED NOVEMBER 16, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 29, 2001. The hearing officer determined that probative expert evidence demonstrated the causal link between the respondent's (claimant) _____, right leg injury and his chronic arterial thrombosis and ischemia of the same extremity.

The appellant (carrier) appeals, based upon contended error in this decision and in a denial of its motion for continuance. The claimant has not responded.

DECISION

We affirm the hearing officer's decision.

The hearing officer has set out the pertinent facts, and we incorporate the decision by reference. There was medical evidence presented to show that the claimant's arterial condition began after he fell, catching his leg in some ladders and twisting. The claimant said he had no such problems at all prior to this _____, accident. While some of the carrier's doctors speculated that the claimant might have a genetic predisposition to developing thrombosis and ischemia, there was no evidence presented to show the existence of a preexisting condition.

MOTION FOR CONTINUANCE

The hearing officer did not err in refusing to delay the CCH because the carrier wished to have the claimant examined by a doctor of its own choice. A hearing may be continued at the request of a party if the hearing officer determines that the party has good cause. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.10(b)(2) (Rule 142.10(b)(2)). When a continuance is requested orally at the CCH, the party must also show that the rights of the other party will not be prejudiced by the continuance. Rule 142.10(c)(3). The motion was first made at the CCH. Though the claimant had been asserting a relationship between arterial problems since the autumn of 2000, and throughout the early months of 2001, and although the carrier had its peer review doctor review medical records in May 2001, the carrier did not seek an actual examination by its choice of doctor until after the benefit review conference (BRC) on July 17, 2001. (At this point, the claimant had been examined by a vascular doctor on the motion of the Texas Workers' Compensation Commission (Commission).)

As noted by the hearing officer, the Commission denied the request for a required medical examination (RME). Given that, it is not clear what the continuance would have accomplished except to give the carrier a second chance at seeking an RME. The actions that the carrier argues were harmful to its presentation of the case appear to be self-inflicted, because the RME could have been sought and accomplished several months

prior to the BRC. Under such circumstances, we can hardly agree that the carrier presented good cause for having the CCH continued.

EXTENT OF INJURY

The hearing officer did not err in finding that the claimant's arterial thrombosis and ischemia were related to his right extremity injury. As the hearing officer correctly noted, expert medical evidence was required to prove the connection within reasonable medical probability. She recites the evidence that she believes satisfied this standard. We do not agree that her determination is so against the great weight and preponderance of the evidence as to be manifestly unfair or unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). The decision and order of the hearing officer are sufficiently supported by the medical evidence in the case, and are affirmed.

The true corporate name of the insurance carrier is **ROYAL INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge