

APPEAL NO. 012591  
FILED NOVEMBER 28, 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 23, 2001. At another hearing on June 15, 2001, it became clear that another worker who was represented by the same attorney representing the appellant (claimant) had been involved in the same incident and had been treated by the same doctors. At that time, it was decided to consolidate the cases as the evidence was the same or similar in both cases. One CCH was held, and the hearing officer wrote one decision involving both claimants but with separate docket numbers. We will, however, write separate decisions.

With regard to the only issue before her, the hearing officer determined that the claimant did not sustain a compensable injury on \_\_\_\_\_.

The claimant, in a pro se appeal, contends that he had not had prior neck complaints and that his doctors were more credible than the respondent's (carrier) witnesses. The carrier responds, urging affirmance.

DECISION

Affirmed.

The basic background facts are not greatly in dispute and are recited in Texas Workers' Compensation Commission Appeal No. 012542, decided November 27, 2001.

The claimant was taken to Dr. G, who noted an exposure to an electrical explosion, performed a physical examination, and noted no injuries. The claimant was released to return to work and did, in fact, return to work. The claimant subsequently began treating with Dr. P, a chiropractor, on November 27, 2000. Dr. P, in a Work Status Report (TWCC-73) dated November 27, 2000, released the claimant to return to work without restrictions. An MRI of the cervical spine was performed on December 11, 2000, showing disc herniations at C3-4, C4-5, and C5-6. Dr. P referred the claimant to Dr. M, a medical doctor, who, in a December 5, 2000, report, had an impression of "[s]tatus post exposure to an electrical injury. [Claimant] twisted and injured his neck at the time of the accident." Dr. P, in a report of July 11, 2001, stated that this was a case of indirect electrical exposure which "caused severe contractions" in the claimant's musculature. The claimant continued working, and, as of May 22, 2001, it was Dr. P's opinion that the claimant's injury did not result in the claimant being off work.

The key point in this case is whether the electric current was actually grounded in the grounding grid or whether it coursed up through the wet cement injuring the claimant.

The carrier presented expert evidence through the employer's safety manager on how the electricity was dissipated. The claimant relied on the MRI and doctors' reports.

The evidence was clearly in conflict on which theory was correct. The hearing officer adopted the carrier's theory that the electricity had entirely dissipated in the underground grid and that the claimant had not sustained any injury. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not find them so in this case. 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.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Robert W. Potts  
Appeals Judge