

APPEAL NO. 020922  
FILED MAY 20, 2002

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 March 25, 2002. The hearing officer determined that the appellant's (claimant) current right shoulder rotator cuff tear is not the result of the compensable (right shoulder) injury sustained on \_\_\_\_\_.

The claimant appealed, contending that his current condition is the same as he sustained in the compensable \_\_\_\_\_, injury. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable right shoulder injury on \_\_\_\_\_, when he fell from a six-foot ladder. An MRI performed December 12, 2000, showed a full-thickness rotator cuff tear. The claimant had right rotator cuff surgical repair on January 10, 2001. It is undisputed and well documented that the claimant continued to have right shoulder complaints in May, June, and July 2001. The claimant had been released to light duty with a lifting restriction of "no lifting more than 60 pounds" with the right shoulder and no lifting overhead with greater than 15 pounds" on July 19, 2001. The claimant was assessed as being at maximum medical improvement in a report dated July 26, 2001.

On \_\_\_\_\_, while the claimant was helping a friend move, or lift or "pull" some hay bales, the claimant "felt a pop in the right shoulder" and had pain. The claimant returned to his treating doctor on August 27, 2001, and the doctor placed the claimant on light duty with a 25-pound lifting restriction. An MRI was performed on November 7, 2001, which according to an independent medical examination, showed "[f]ull thickness rotator cuff tear–tendinopathy, post-surgical changes." The hearing officer commented that the "Claimant did sustain a new injury to his right shoulder \_\_\_\_\_ as a result of 'pulling' or lifting the hay bales."

Whether the claimant's current torn rotator cuff is a new injury or a continuation of the original injury is a question of fact for the hearing officer to resolve. The hearing officer determined that the claimant sustained a new injury on \_\_\_\_\_, and that determination is supported by the evidence and 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).

Accordingly, the decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTORNEY  
450 GEARS ROAD, SUITE 500  
HOUSTON, TEXAS 77067.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Roy L. Warren  
Appeals Judge