

APPEAL NO. 021102
FILED JUNE 24, 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 April 9, 2002. The hearing officer decided that the respondent (claimant) sustained injury by way of aggravation to her cervical area. The appellant (carrier) appeals and argues that no medical evidence supports a determination that there was an aggravation injury. The claimant responds that the decision must be affirmed.

DECISION

Affirmed.

Although the issue was phrased in terms of the "extent" of the compensable injury, the argument of the parties actually concerned the nature of the injury that happened on _____. The claimant, a special education teacher, who was 53 years old, was twice knocked down during a scuffle by an out-of-control, special education student. The carrier accepted some of the claimant's injuries (left thumb and fingers) but contended that the rest was solely caused by prior nonwork-related incidents or resulted from an ordinary disease of life, degenerative disc disease. The claimant testified that the root cause of numbness in the accepted areas was a neck injury.

The hearing officer did not err in his determination that the claimant sustained aggravation injuries. We would caution that while chronology alone does not establish a causal connection between an accident and a later-diagnosed injury (Texas Workers' Compensation Commission Appeal No. 94231, decided April 8, 1994), neither does a delayed manifestation nor the failure to immediately mention an injury to a health care provider necessarily rule out a connection. See Texas Employers Insurance Company v. Stephenson, 496 S.W.2d 184 (Tex. Civ. App.-Amarillo 1973, no writ). Generally, lay testimony establishing a sequence of events which provides a strong, logically traceable connection between the event and the condition is sufficient proof of causation. Morgan v. Compugraphic Corp., 675 S.W.2d 729, 733 (Tex. 1984). The site of the trauma and its immediate effects are not necessarily determinative of the nature and extent of the compensable injury and the full consequences of the original injury, together with the effects of its treatment, upon the health and body of the worker are to be considered. Western Casualty & Surety Company v. Gonzales, 518 S.W.2d 524 (Tex. 1975). The mechanism and cause of the claimant's injuries are wholly consistent with the claimed injuries.

It is axiomatic, in caselaw having to do with aggravation, that the employer accepts the employee as he is when he enters employment. Gill v. Transamerica Insurance Company, 417 S.W.2d 720, 723 (Tex. Civ. App.-Dallas 1967, no writ). An incident may cause injury where there is preexisting infirmity even if no injury might

result in a sound employee, and a predisposing bodily infirmity will not preclude compensation. Sowell v. Travelers Insurance Company, 374 S.W.2d 412 (Tex. 1963). However, the compensable injury includes these enhanced effects, and, unless a first condition is one for which compensation is payable under the act, a subsequent carrier's liability is not reduced by reason of the prior condition. St. Paul Fire & Marine Insurance Company v. Murphree, 357 S.W.2d 744 (Tex. 1962). If the prior condition is compensable, the appropriate reduction for a prior compensable injury must be allowed through contribution determined in accordance with Section 408.084.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). This is not the case here, and we, therefore, affirm the decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CHIEF OF STAFF
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge