

APPEAL NO. 021928  
FILED SEPTEMBER 17, 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 July 11, 2002. The hearing officer determined that the respondent (claimant) sustained a new compensable (low back) injury on (date of subsequent injury), and that he had disability from May 1, 2001, through May 1, 2002.

The appellant (self-insured) appealed, contending that a preinjury and a post injury MRI showed no new damage and that the claimant's condition is a continuation of an (date of first injury) injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a low back injury on (date of first injury). The claimant was treated conservatively and was certified to be at maximum medical improvement on January 15, 2001. Medical reports would indicate that the claimant continued to have intermitted back pain thereafter. The claimant testified that he sustained a new injury on (date of subsequent injury), while using a bar to pry up some flooring. At issue is whether the claimant sustained a new injury (either in its own right or as an aggravation of his prior injury) or whether the condition involved a continuation or flare up of his prior condition. Although the hearing officer comments that the claimant "was not credible", the hearing officer also states that the medical evidence supports a new injury. The hearing officer also commented that "this injury is a new injury, not an aggravation which would also be new injury, or a continuation of the old (date of first injury) injury." The hearing officer's comments are supported by the evidence although there is some evidence which would lead to a contrary conclusion.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We hold that the hearing officer's determinations are 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).

The hearing officer's decision and order are affirmed.

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

**SUPERINTENDENT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Margaret L. Turner  
Appeals Judge