

APPEAL NO. 022240  
FILED OCTOBER 25, 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 30, 2002, with the record closing on August 2, 2002. With respect to the single issue before her, the hearing officer determined that the respondent's (claimant) \_\_\_\_\_, compensable injury includes an anterior talon fibular ligament tear and right osteochondral talar dome condition. In its appeal, the appellant (self-insured) argues that the hearing officer erred in determining that the compensable injury includes the osteochondral talar dome condition. Specifically, the self-insured maintains that the claimant sustained a new injury in the fall at home on (date of new injury), which resulted in the osteochondral talar dome injury. In his response, the claimant urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable right ankle sprain and left knee contusion injury on \_\_\_\_\_. The hearing officer did not err in determining that the claimant's compensable injury also includes an anterior talon fibular ligament tear and a right osteochondral talar dome injury. That issue presented a question of fact for the hearing officer. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. There was conflicting evidence on the issue of whether the claimant's compensable injury was a producing cause of the challenged conditions or whether the claimant sustained a new injury in the incident at home on (date of new injury). Dr. C, who conducted a peer review for the self-insured, opined that the claimant's fall at home caused a new and distinct injury and that there was no causal connection between the compensable injury and the anterior talon fibular ligament tear and the right osteochondral talar dome injury. However, Dr. V, the orthopedic surgeon who treated the claimant's ankle injury, disagreed that the claimant sustained a new injury in the (date of new injury), incident. Specifically, Dr. V stated that "[t]he first injury caused significant instability in the ankle joint, which in turn caused the second injury, an osteochondral injury to the talar dome. The surgery was for lateral ligament repair which certainly goes back to [claimant's] injury on July 12<sup>th</sup>. Within reasonable probability, the two are related. It is my opinion, within reasonable medical probability, that the injury in November was not new, but a recurrent problem from the previous injury." In addition, Dr. G, the claimant's treating doctor, agreed that the claimant's compensable injury was a producing cause of the anterior talon fibular ligament tear and the osteochondral talar dome injury. The hearing officer was acting within her province as the fact finder in crediting the evidence from Drs. V and G and in determining that the compensable injury includes the anterior talon fibular ligament tear and the osteochondral talar dome injury. Nothing in our review of the record demonstrates that the challenged determination is so against the great

weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the self-insured is **(Self Insured Governmental Entity)** and the name and address of its registered agent for service of process is

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

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Margaret L. Turner  
Appeals Judge