

APPEAL NO. 022648
FILED NOVEMBER 27, 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 September 25, 2002. The hearing officer determined that the respondent's (claimant) herniated disc "is a direct result of the compensable injury of _____," and that the claimant had disability from January 8 through July 15, 2002.

The appellant (self-insured) appealed, citing various medical evidence, and contending that the claimant's herniated disc was due to an intervening motor vehicle accident (MVA) on December 16, 2001. The file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. (The claimant apparently sustained a low back injury preventing a machine from falling over.) The claimant began seeing her treating doctor on January 24, 2001, and received conservative care. An MRI performed on January 30, 2001, showed a "3 mm concentric disc bulge at L4-L5." In dispute is whether surgery was discussed. The claimant continued to work and received two epidural steroid injections with only temporary relief. On December 16, 2001, the claimant was involved in a MVA when her car was hit from behind by another vehicle. The damage to the claimant's car totaled \$340.34. The claimant testified that she only sustained a sore neck in the MVA and that her low back pain did not change. On January 7, 2002, the claimant's back pain became increasingly severe and her treating doctor referred her to an orthopedic surgeon, who ordered another MRI. An MRI performed on January 17, 2002, showed, in addition to "bulging degenerative disc," a "superimposed large disc herniation." Another lumbar MRI performed on March 19, 2002, showed a "7 mm foraminal disc herniation at L4-5." The claimant had lumbar spinal surgery on April 10, 2002. The claimant testified that she was unable to work after January 8, 2002, because of the pending surgery and recovery from surgery.

The self-insured contends that the December 2001 MVA was an intervening incident which either caused the herniated disc or aggravated the compensable injury. The claimant contends that the self-insured had the burden to prove that the December 2001 MVA was the sole cause of the claimant's herniated disc. The medical evidence was in conflict with both the orthopedic surgeon and a required medical examination doctor stating that the back injury was work related and a self-insured doctor saying that there were significant changes noted on the MRI's after the December 2001 MVA. However, even the self-insured's doctor was unable to say that the December 2001 MVA was the sole cause of the claimant's condition. The hearing officer found that

there “is a causal connection between the Claimant’s compensable low back injury and the herniated lumbar disc.”

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 including the medical evidence and decided what facts were established. When reviewing a hearing officer’s decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer 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

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Veronica Lopez
Appeals Judge