

APPEAL NO. 022980  
FILED JANUARY 8, 2003

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 October 24, 2002. The appellant/cross-respondent (carrier 1) appeals the hearing officer's determination in, (Docket No. 1) that the compensable injury of (first date of injury), includes the respondent/cross-appellant's (claimant) current sprain/strain to the cervical spine and left shoulder after (second date of injury). The claimant appeals the hearing officer's determination in (Docket No. 2) that the claimant did not sustain a compensable injury on (second date of injury); and that the claimant does not have disability. Respondent (carrier 2) files no appeal and there is no response from carrier 2 to the appeals contained in our file.

DECISION

Affirmed.

Whether the claimant's compensable injury of (first date of injury), extends to and includes the current sprain/strain to the cervical spine and left shoulder after (second date of injury), are factual questions for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

Further, whether the claimant sustained a new compensable injury on (second date of injury), and had disability from that alleged injury are also factual questions for the hearing officer to resolve. The claimant testified that he aggravated his previous neck and shoulder injuries. The mere recurrence or remanifestation of symptoms of an old injury or condition does not automatically equate to a new compensable injury. Texas Workers' Compensation Commission Appeal No. 962641, decided January 29, 1997. Although the claimant testified that in addition to aggravating his neck and shoulder on (second date of injury), he also injured his low back, the hearing officer could have discounted that testimony. The claimant testified that he felt a pop on (second date of injury), as he was lifting a box. When asked where he felt something pop as he was lifting boxes, the claimant replied, "I guess probably my lower back, you know". We note that there was no mention of low back complaint in either medical records from January 31, 2002, or in the Employee's Request to Change Treating Doctors (TWCC-53) that was signed by the claimant on January 31, 2002.

The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). We have reviewed the matters complained of on appeal and conclude that the hearing officer's determinations in this regard are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, *supra*.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier in Docket No. 1 is **ST PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

The true corporate name of the insurance carrier in Docket No. 2 is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET, SUITE 2900  
DALLAS, TEXAS 75201.**

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Roy L. Warren  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge