APPEAL NO. 031039
FILED JUNE 17, 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 (CCH) was held on March 24, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) did not suffer an intervening injury on (date of intervening injury). The appellant (carrier) appealed, arguing that the determination of the hearing officer was against the great weight and preponderance of the evidence. The carrier additionally argues that the hearing officer made determinations considering issues that were not presently before him. The claimant responded, urging affirmance.

DECISION

Affirmed as reformed.

The parties stipulated that the claimant sustained a compensable injury to her right ankle and foot on _____. To prove that a subsequent injury is the sole cause of a claimant's current condition, the burden is on the carrier to prove that the claimant's subsequent condition is the sole contributing factor to the claimant's current condition. Texas Workers' Compensation Commission Appeal No. 94844, decided August 15, 1994; Texas Workers' Compensation Commission Appeal No. 94280, decided April 22, 1994; *see also* Texas Workers' Compensation Commission Appeal No. 93864, decided November 10, 1993, and decisions and cases cited therein. This is so because an injury is compensable even though aggravated by a subsequently occurring injury or condition. Appeal No. 94844, and cases cited therein. The mere existence of an intervening injury does not establish that the intervening injury is the sole cause of the claimant's condition. There may be more than one producing cause of the claimant's current condition, namely the original compensable injury and the subsequent noncompensable incident of May 31, 2002. Whether a claimant's medical problems reflect the continuing effects of a compensable injury or are solely caused by an intervening or subsequent event is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 010965, decided June 7, 2001.

The hearing officer is the sole judge of the weight and credibility to be given to the evidence and the relevance and materiality to assign to the evidence. Section 410.165(a). As the fact finder, the hearing officer is charged with the responsibility to resolve the conflicts in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer could believe all, none, or any part of any witness's testimony and could properly decide what weight he should assign to the other evidence before him. We will not substitute our judgment for the hearing officer's where his determinations are supported by sufficient evidence. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

In this case, the hearing officer made a determination that the claimant did not sustain an intervening injury, and that she continues to suffer from the effects of the compensable injury sustained on _____. In so doing, the hearing officer accepted the claimant's testimony, and considered the medical evidence. We cannot agree that the hearing officer's determinations are against the great weight and preponderance of the evidence. The hearing officer's findings of fact are supported by sufficient evidence. Nothing in our review of the record indicates that the hearing officer's determinations are clearly wrong or manifestly unjust. Therefore, we will not disturb this finding on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier argues that there was never an agreement by the parties to add an extent-of-injury issue, nor was the issue actually litigated. The hearing officer found, in Finding of Fact No. 7, that the claimant's arthritis of the right ankle relates to the talus fracture and not an ankle sprain on May 31/(date of intervening injury), and in Finding of Fact No. 8, that the claimant's current arthritis of the right ankle is a direct and natural result of the injury of _____. We strike Finding of Fact Nos. 7 and 8 as superfluous. As so modified, we affirm the hearing officer's decision and order.

Finally, the carrier asserts that "[t]he hearing officer wholly failed to consider all the evidence and to evaluate the evidence presented as to the only issue certified to be litigated, that being whether the claimant sustained an intervening injury on (date of intervening injury)." We note that the hearing officer is not required to detail all of the evidence in the decision and order. *See* Texas Workers' Compensation Commission Appeal No. 93164, decided April 19, 1993. Nothing in our review indicates that the carrier's evidence was not fully considered by the hearing officer.

We affirm the hearing officer's decision and order as reformed.

The true corporate name of the insurance carrier is **HARTFORD CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Veronica Lopez-Ruberto
Appeals Judge

_____
Robert W. Potts
Appeals Judge