APPEAL NO. 031438
FILED JULY 18, 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 May 6, 2003. With regard to the four issues before her, the hearing officer determined that the respondent's (claimant) compensable left ankle injury extended to include internal derangement of the left ankle; that the claimant had disability from August 20, 2001, through June 3, 2002; that the claimant was at maximum medical improvement (MMI) on June 3, 2002; and that the claimant had a 4% impairment rating (IR). The hearing officer's determinations on disability, MMI and IR have not been appealed and have become final pursuant to Section 410.169.

The appellant (self-insured) appeals the extent-of-injury issue contending that the claimant's versions of the injury are "completely different," that there was "NO medical evidence to support the occurrence of the ankle derangement as a result of the mechanics of the injury," and that there were other intervening occurrences "which more likely than not caused his later ankle problem." The claimant responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable left ankle sprain on _____. The claimant continued to have left ankle complaints, saw a number of different doctors, and eventually had left ankle surgery for internal derangement of the left ankle on June 5, 2002.

Initially we will note that the appealed/disputed issue sounds like a medical review matter of whether treatment and surgery of the compensable left ankle injury is reasonable and necessary. However, that aside, we address the self-insured's appeal. First the self-insured asserts that the claimant has given "completely different" versions of how the injury occurred citing some seven different examples. Although the self-insured has accepted liability for a compensable left ankle sprain the self-insured's appeal sounds like a dispute of compensability. The hearing officer recognized that the medical records "contain a slightly different history . . . but in any event, the Carrier accepted compensability of the injury." Section 410.165(a) makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Our review of the record would indicate the differences in the versions were only slight, particularly in view of the fact that the claimant testified (and presumably gave the medical histories) through a translator or translators. The version could change with the translator's interpretation of what was said.

Secondly, the self-insured argues that there was no medical evidence that the claimant's ankle derangement was a result of the mechanics of the injury or in the alternative the doctors did not have the accurate history. We disagree. While the term ankle derangement is not used much there is support for the hearing officer's determination in the records of Dr. D and Dr. L, who wants to rule out internal ankle derangement. As indicated previously, the extent of injury is a factual determination for the hearing officer to resolve. The hearing officer recognized slightly different versions of the accident and nonetheless determined that the compensable injury includes internal derangement of the claimant's left ankle.

Lastly, the self-insured argues that a bath tub incident on (subsequent date of injury), and/or slipping on some gravel after a return to light duty was the cause of the claimant's left ankle derangement. The Appeals Panel has frequently noted that the burden is on the carrier to prove that the intervening event is the sole cause of the claimant's current condition. Texas Workers' Compensation Commission Appeal No. 000517, decided April 24, 2000, and Texas Workers' Compensation Commission Appeal No. 94844, decided August 15, 1994. The mere existence of an intervening event (the bath tub and loose gravel incidents) does not establish that the intervening event is the sole cause of the claimant's current condition, i.e. internal derangement of the left ankle.

We have reviewed the complained-of determinations and conclude 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).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

RD
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Margaret L. Turner
Appeals Judge