

APPEAL NO. 031486
FILED JULY 15, 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 April 28, 2003. The hearing officer determined that the appellant's (claimant) compensable left knee injury of _____, did not extend to include injury of the right shoulder, left wrist, left elbow, and right knee, and that the claimant suffered an intervening injury to the left upper extremity (LUE) and right lower extremity (RLE) on (subsequent date of injury), as well as multiple physical insults due to surgeries and any complex regional pain syndrome (CRPS) of the LUE and RLE is a result of the intervening events.

The claimant appeals, basically on sufficiency of the evidence grounds, but also misreads one of the hearing officer's findings of fact. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. Although not stipulated, it appears undisputed that injury was to the claimant's left knee. It also seems undisputed that the claimant had six surgeries to his left knee culminating in a total left knee replacement in October 1994. The claimant testified that his doctor also diagnosed reflex sympathetic dystrophy (RSD) of the left knee in August 1994. Subsequently, on (subsequent date of injury), the claimant fell in a supermarket, sustaining multiple injuries. The claimant filed a lawsuit against the supermarket, in which he alleged that at the time of the fall he "was in excellent health, capable of engaging in gainful employment . . ." The claimant settled his lawsuit for at least \$60,000. The claimant was subsequently diagnosed with various other injuries, including the disputed right shoulder, LUE and RLE injuries.

Perhaps the key piece of medical evidence is a report dated February 27, 2002, by Dr. W, a Texas Workers' Compensation Commission required medical examination doctor who was appointed to determine whether the RSD (used interchangeably with CRPS) was the result of the compensable injury. Both parties cite Dr. W's comprehensive and detailed report, however, by a fair reading of the report the hearing officer could conclude that Dr. W does not believe the claimant has RSD or CRPS in the RLE or LUE, but even if he does "it has been caused by other intervening injuries and not the compensable injury of _____."

At the CCH there was extensive discussion of rewording the issue from the benefit review conference, and although the issues as listed in the decision and order

are somewhat different than those discussed, neither party appeals that point and we have reviewed the record on the basis of the stated issues.

The claimant, in his appeal, emphasizes that the hearing officer failed to include Finding of Fact No. 5 in his discussion, which the claimant believes said that “the compensable injury does extend to include RSD to [LUE].” However, Finding of Fact No. 5 actually states:

5. There is a reasonable medical probability that the left knee injury and treatment is a producing cause of any current CRPS of the left lower extremity, even if the extremity was injured in the subsequent ____ fall. [Emphasis added.]

The evidence and testimony was that the carrier had accepted a left knee injury, that the claimant had been diagnosed with RSD of the left knee prior to the August 1995, supermarket fall, and that the carrier had been paying for RSD treatment to the left lower extremity. The hearing officer found that the injury to the claimant’s LUE was not part of the compensable injury.

Although the medical evidence was in conflict, the hearing officer’s decision fairly tracks Dr. W’s report and as such, the hearing officer’s determinations are supported by sufficient evidence. The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this case, the hearing officer weighed the evidence and his determinations on the issues 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).

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge