

APPEAL NO. 031622  
FILED AUGUST 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 May 6, 2003. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury does not extend to and include scarring along the left lobe of the liver; that the compensable injury and resulting medical treatment was not a producing cause of the claimant's non-healing, chronic, and/or ischemic ulcers between the second and third digits of the right foot; that the medical treatment rendered for the compensable injury, a right lumbar sympathectomy, did not cause or create a vascular and/or circulatory condition in the right lower extremity; and that the claimant's intervening injury to the right foot on \_\_\_\_\_, was not the sole cause of the claimant's non-healing, chronic, and/or ischemic ulcers between the second and third digits of the right foot. The claimant appealed the determinations that were adverse to him on sufficiency of the evidence grounds. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the hearing officer's sole cause determination.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not extend to and include scarring along the left lobe of the claimant's liver, non-healing, chronic, and/or ischemic ulcers between the second and third digits of the right foot, or a vascular and/or circulatory condition in the right lower extremity. The claimant had the burden to prove the causal connection between his (previous date of injury), compensable injury and/or the treatment for that injury and the conditions at issue. The extent-of-injury issues presented questions of fact for the hearing officer. There was conflicting evidence presented on the disputed issues. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that his compensable injury included scarring along the left lobe of the liver, non-healing, chronic, and/or ischemic ulcers between the second and third digits of the right foot, or a vascular and/or circulatory condition in the right lower extremity. The hearing officer was acting within her province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determinations are so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**RUSSELL RAY OLIVER, PRESIDENT  
221 W. 6TH STREET, SUITE 300  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Edward Vilano  
Appeals Judge