

APPEAL NO. 031928
FILED SEPTEMBER 10, 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 June 26, 2003. The hearing officer resolved the disputed issue by deciding that the respondent/cross-appellant's (claimant) _____, compensable right knee injury includes the MRI findings of the left knee dated April 17, 2002 (1. Joint effusion. 2. Mixoid degeneration and irregular inferior surface tear posterior horn of the medial meniscus consistent with a tear. 3. Abnormal anterior cruciate ligament configuration consistent with partial tear. 4. Early chondromalacia of patella). The hearing officer further determined that the claimant's _____, compensable injury does not include the lumbar spine, cervical spine, MRI findings of the lumbar spine dated April 17, 2002 (1. Intervertebral osteochondrosis and paradiskal osteosclerotic changes and a schmorl's node at L4-5 and intervertebral erosive osteochondrosis at L5-S1. 2. There is minimal remodeling osteophytes without significant central spinal canal stenosis or disc herniation. 3. Facet arthropathy and remodeling osteophytes at L5-S1 with minimal lateral recess stenosis), right tibial neuropathy, and/or depression. The appellant/cross-respondent (carrier) appealed the hearing officer's determination regarding the left knee on sufficiency of the evidence grounds. The appeal file does not contain a response from the claimant. The claimant appealed the hearing officer's determinations regarding the lumbar spine, the MRI findings of the lumbar spine dated April 17, 2002, right tibial neuropathy, and/or depression, also on sufficiency of the evidence grounds. The appeal file does not contain a response from the carrier. The parties stipulated that the claimant's _____, compensable injury does not extend to include an injury to the cervical spine.

DECISION

Affirmed.

The sole issue before the hearing officer was the extent of the claimant's _____, compensable injury. Extent of injury is a question of fact. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer noted that the claimant failed to prove that he sustained damage or harm to the physical structure of his lumbar spine or an aggravation of his preexisting degenerative lumbar spine condition. The hearing officer additionally noted that the medical evidence was insufficient to establish a causal connection between the diagnosed right tibial neuropathy and the claimant's diagnosed depression and the claimant's compensable injury. However, the hearing officer was persuaded that the evidence presented at the CCH was sufficient to establish a causal

relationship between the compensable injury sustained on _____, and the injury sustained to the claimant's left knee. In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 decision and order of the hearing officer.

The true corporate name of the insurance carrier is **UTICA NATIONAL INSURANCE** and the name and address of its registered agent for service of process is

**RICHARD A. MAYER
11910 GREENVILLE AVENUE, SUITE 600
DALLAS, TEXAS 75243.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge