

APPEAL NO. 032461  
FILED OCTOBER 31, 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 August 29, 2003. The hearing officer determined that the compensable left sided hernia of \_\_\_\_\_, extends to and includes the current condition of a recurrent ventral hernia. The appellant (self-insured) appeals the hearing officer's extent-of-injury determination on sufficiency of the evidence grounds, and asserts that the hearing officer abused his discretion in excluding the Self-insured's Exhibit Nos. 1, 8, 9, and 11. The respondent (claimant) urges affirmance.

DECISION

Affirmed.

We first address the self-insured's assertion that the hearing officer erred in excluding Self-Insured's Exhibit Nos. 1, 8, 9, and 11. The claimant objected to the admission of these exhibits at the hearing, asserting that they were not exchanged within 15 days after the benefit review conference as required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)). The carrier's attorney conceded that it exchanged these exhibits beyond the 15-day exchange period but asserted good cause. We have held that the appropriate test for the existence of good cause is whether the self-insured acted as a reasonably prudent person would have acted under the same or similar circumstances. Texas Workers' Compensation Commission Appeal No. 950397, decided April 27, 1995. Upon review of the record, we cannot conclude that the hearing officer abused his discretion in excluding Self-Insured's Exhibit Nos. 1, 8, 9, and 11. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986).

The hearing officer did not err in determining that the compensable left sided hernia injury of \_\_\_\_\_, includes the claimant's current condition of a recurrent ventral hernia. The determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies 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)). 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).

The hearing officer's decision and order is affirmed.

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

**BB  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Edward Vilano  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge