

APPEAL NO. 032750
FILED DECEMBER 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 October 2, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable (low back) injury on _____, and had disability from September 1, 2003, through the date of the CCH.

The appellant (self-insured) appeals the adverse determinations largely on sufficiency of the evidence grounds, emphasizing evidence which might lead to a contrary conclusion. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant, a "track maintainer," testified that he injured his low back on _____, operating a "spring switch." It is undisputed that the claimant had seen Dr. M for back and kidney problems on February 18, 2003. Whether that back pain had resolved was in dispute. The claimant went to a hospital emergency room the day after the spring switch incident, (day after injury). The claimant subsequently saw his "PCP" doctor, was referred to another doctor, and had an MRI which showed a "prominent left L4-L5 disc herniation." The claimant was also examined by Dr. G, a Texas Workers' Compensation Commission required medical examination doctor, on May 29, 2003. Dr. G examined the claimant, reviewed the claimant's medical history, including the February 2003 back pain episode, and opined that the claimant had sustained a work-related injury. A carrier peer review doctor on a record review reached a different conclusion. The claimant had spinal surgery (paid for by group health coverage) on September 19, 2003.

As noted by the hearing officer, some of the medical reports give conflicting histories regarding the onset of the back pain. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. 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). The hearing officer was acting within his province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. The factors emphasized by the carrier in challenging those determinations on appeal are the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer in resolving the issues before him.

The carrier's appeal of the disability issue is premised on the noncompensability of the injury. Because we are affirming the hearing officer's determination on compensability of the injury, we likewise affirm the disability determination.

Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge