APPEAL NO. 032848
FILED DECEMBER 3, 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 October 6, 2003. The hearing officer determined that the respondent's (claimant) compensable (left ankle fracture) injury includes a tear of the left Achilles tendon and that the claimant had disability from August 20, 2002, through January 5, 2003, and from February 11 through August 28, 2003. The disability determination has not been appealed and has become final. Section 410.169. The appellant (self-insured) appeals, contending that the Achilles tendon tear occurred at home, and was not an injury which "naturally flowed" from the compensable injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is relatively undisputed that the claimant, a receiving clerk, lost her footing on a ladder with her left foot becoming entangled in the rungs of the ladder on _____. (The self-insured disputes some of the mechanics of the fall.) The claimant sustained a dislocated ankle with multiple fractures. The claimant had surgery, her left foot was placed in a cast, and eventually she was prescribed physical therapy. On October 29, 2002, after finishing some foot exercises at home, the claimant was walking across the room when she felt a pop and experienced pain in her left ankle. The claimant reported the incident to her physical therapist the next day and was told it was probably scar tissue. There is some conflicting medical evidence whether the claimant has a torn Achilles tendon and the severity of any such tear. The claimant eventually had additional surgery to repair a torn Achilles tendon on May 7, 2003. The claimant proceeds on alternate theories that:(1) the Achilles tendon was torn on _____, in the compensable fall and was not diagnosed until later, or (2) that the Achilles tendon was weakened while the claimant's leg/foot was imbolized and tore when the claimant began to walk on October 29, 2002.

The self-insured argues that the Achilles tendon tear is not an injury which naturally flows from the left ankle fracture because it did not have a connection to the original injury. The self-insured correctly pointed out some of the factors to be considered in determining whether there was a follow-on injury. The self-insured also pointed out that some of the doctors who opined that the Achilles tendon injury was an indirect result of the original injury may have thought the ankle pop incident occurred during physical therapy.

These arguments were essentially the same arguments made to the hearing officer. There was conflicting evidence and 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. 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 her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations were incorrect as a matter of law or 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

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

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

_____
Edward Vilano
Appeals Judge