

APPEAL NO. 033365  
FILED FEBRUARY 23, 2004

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 December 3, 2003. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, includes the cervical region and that the claimant has sustained disability beginning January 31, 2003, and continuing through the date of the CCH. The appellant (carrier) appeals, disputing the determinations. The carrier argues that the claimant was not credible, that expert medical evidence is required to show causation, and that the medical opinions provided were based on a misunderstanding of the claimant's preexisting condition. The appeal file does not contain a response from the claimant.

DECISION

Affirmed as reformed.

A review of the record reflects that the parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. The claimant testified that she worked as a driver for the employer and that on \_\_\_\_\_, as she was exiting the van she drove for the employer, she stepped in a pothole and fell, landing on her knees and outstretched her arms, and rolled to the right onto her shoulder. At issue was whether the compensable injury includes the cervical region and whether the claimant had disability after January 31, 2003. These issues presented questions of fact for the hearing officer to resolve. The hearing officer noted that the claimant is a credible witness and that her complaints of new shoulder and hand problems after the date of the compensable injury are credible and supported by the medical evidence. The hearing officer additionally noted that the claimant satisfied her burden to prove that she has a new injury to her neck that is causing her right upper extremity problems, at least in the form of aggravation of underlying degenerative cervical conditions.

The carrier asserts that expert medical evidence is required to prove causation in the instant case. We disagree and decline to find error on the part of the hearing officer for considering lay testimony and the medical records in evidence. Generally, in workers' compensation cases, the issues of injury and disability may be established by the claimant's testimony. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). Lay testimony is sufficient to establish causation where, based upon common knowledge, a fact finder could understand a causal connection between the employment and the injury, but expert testimony may be required where such common knowledge does not exist. Texas Workers' Compensation Commission Appeal No. 941464, decided January 9, 1995. It has also been held that to the extent that the aggravation of a prior injury caused damage or harm to the physical structure of the employee, it can be said that the resulting condition falls within the meaning of "injury" as defined by the 1989 Act.

Cooper v. St. Paul Fire & Marine Insurance Company, 985 S.W.2d 614 (Tex. App.-Amarillo, no pet.).

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations that the compensable injury includes the cervical region and that the claimant had disability beginning January 31, 2003, and continuing through the date of the CCH are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). The decision and order states that the compensable injury occurred November 26, 2003, rather than \_\_\_\_\_. We reform the hearing officer's decision to correct the typographical error to conform to Finding of Fact No. 6, Conclusion of Law No. 3, and the evidence presented at the CCH.

We affirm the decision and order of the hearing officer as reformed.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

\_\_\_\_\_  
Judy L. S. Barnes  
Appeals Judge

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Chris Cowan  
Appeals Judge