

APPEAL NO. 040611  
FILED MAY 6, 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 February 18, 2004. The hearing officer determined that the respondent (carrier) provided workers' compensation insurance for the employer on \_\_\_\_\_; that, as stipulated at the CCH, the appellant (claimant) sustained a compensable injury to his neck on \_\_\_\_\_; that the claimant did not have disability as a result of the neck injury; that the compensable injury of \_\_\_\_\_, does not extend to and include an injury to the claimant's left shoulder which occurred approximately one week after the compensable neck injury; and that because the compensable injury does not extend to and include an injury to the left shoulder, the claimant did not have disability. The claimant appeals the extent-of-injury and disability determinations, asserting that the shoulder injury was a "direct natural result" of the compensable injury and therefore compensable, and that he is still unable to return to work because of the shoulder injury. The carrier responds, urging affirmance. The coverage determination was not appealed and is final. Section 410.169.

DECISION

Affirmed.

The claimant had the burden of proving the extent-of-injury issue in this case, and the issue was one 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)). The hearing officer's determinations are not 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 (Tex. 1986).

Based upon his factual determinations, the hearing officer found that, under applicable Appeals Panel decisions, the claimant's subsequent left shoulder injury is not compensable under the theory that the original injury to the neck extends to the shoulder. The hearing officer has correctly applied the law to the facts of this case. *See, for example*, Texas Workers' Compensation Commission Appeal No. 012943, decided January 14, 2002, and cases cited therein. We believe that the facts of this case fall in line with the cases that found that the subsequent injury alleged was not a direct and natural result of the original compensable injury. Rather, this is a case in which instability, weakness, or lowered resistance from a compensable injury allegedly resulted in an injury to another body part, and under the case law cited above, such an injury is not compensable as a part of the \_\_\_\_\_, injury.

Disability is likewise a factual determination for the hearing officer. The evidence sufficiently supports the determination that the claimant does not have disability. Cain, supra.

We affirm the decision and order of the hearing officer.

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

**RUSS LARSEN  
860 AIRPORT FREEWAY WEST, SUITE 500  
HURST, TEXAS 75054-3286.**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Margaret L. Turner  
Appeals Judge

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Edward Vilano  
Appeals Judge