

APPEAL NO. 041459
FILED AUGUST 2, 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 was held on May 20, 2004. The hearing officer determined that the compensable injury of _____, does not include the appellant's (claimant) left knee problems on or after (subsequent date of injury). The claimant appeals this determination on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury to his low back and left knee on _____. It is undisputed that the compensable injury included a left-sided disc herniation at L4-5 and left knee patella tendonitis. On February 16, 1994, the claimant underwent a laminectomy and discectomy at L4-5. The medical evidence is conflicting with regard to the claimant's condition following the surgery. The claimant testified that he continued to suffer low back pain and left-sided radiculopathy. The claimant further stated that he experienced give-way weakness in his left leg, due to his low back injury, which has caused him to fall on several occasions. On or about (subsequent date of injury), while ascending stairs, the claimant's left knee gave way and "it hit some metal steps." It is undisputed that this incident did not occur in the workplace. An MRI revealed a severe contusion and/or non-displaced fracture of the medial pole of the patella, lateral femoral-tibial contusion, medial patellar soft tissue restraint injury, consistent with a lateral patellar dislocation, and a mild sprain of the anterior cruciate ligament. At issue is whether these conditions are related to the compensable injury of _____.

The hearing officer did not err in determining that the compensable injury of _____, does not include the claimant's left knee problems on or after (subsequent date of injury). In Texas Workers' Compensation Commission Appeal No. 950524, decided May 19, 1995, the Appeals Panel discussed the concept of follow-on injuries occasioned by falls related to compensable injuries. In that case, the claimant sustained a compensable knee injury; the knee later gave way, causing the claimant to fall into a wall injuring his neck and arm. In reversing the hearing officer's decision which found the subsequent injuries compensable, we rejected the concept that brings within the ambit of compensable injury every consequence that arguably may not have occurred "but for" the original compensable injury (citing Texas Workers' Compensation Commission Appeal No. 941575, decided January 5, 1995), and said that, though an injury may affect a person's resistance, it will not mean that a subsequent injury outside the workplace is compensable (citing Texas Workers' Compensation Commission Appeal No. 92553, decided November 30, 1992; Maryland Casualty Company v. Rogers, 86 S.W.2d 867 (Tex. Civ. App.-Amarillo 1935, writ ref'd)). The Appeals Panel

cited several cases where compensability of a subsequent or follow-on injury was upheld, noting that such cases involved a direct flow of events showing a causal relationship—e.g. a back condition caused by a changed or altered gait following a knee injury, and an injury resulting from physical therapy treatment for a compensable injury. In view of our precedent and the evidence above, 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).

Notwithstanding the above, the hearing officer's extent-of-injury determination should not be read to terminate the claimant's lifetime medical benefits for the compensable injury of _____, which included the low back and left knee patella tendonitis. See Section 408.021(a); Texas Workers' Compensation Commission Appeals No. 011447, decided August 10, 2001.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge