APPEAL NO. 041624
FILED AUGUST 25, 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 June 24, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include depression, a broad based annular bulge compressing the cord at C4-5, a shallow central disc protusion not in contact with the cord at C5-6, an annular bulge not in contact with the cord at C3-4, lumbar spine and an injury to the left ankle (referred to collectively as the claimed conditions) and that the claimant did not have disability from February 10, 2004, through the date of the CCH.

The claimant appeals, contending that the medical evidence and her testimony were sufficient to establish that the claimed conditions were caused or aggravated by the compensable injury and that she had disability. The respondent self-insured (referred to as the carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant, an account representative, testified how she sustained a compensable injury on _____, when she missed sitting in a chair and fell to the floor. The carrier accepted an injury to the left shoulder, left knee, left wrist, and cervical spine in the nature of sprains and strains. The claimant at the time of the fall was in a body cast from a lumbar fusion which had been performed on March 13, 2003, due to an unrelated incident (the claimant had returned to work June 23, or June 24, 2003). In fact most of the claimed conditions had been diagnosed and treated prior to the compensable fall injury and the claimant proceeds on the theory that the claimed conditions were aggravated by the compensable fall. Whether the various claimed conditions had resolved or improved, or not, was in dispute. The claimed left ankle injury was a new condition and the claimant contends that although the initial medical records failed to document a left ankle injury, the claimant's testimony and subsequent documentation were sufficient to establish a left ankle injury. The inability to work was due either to the claimed conditions or the fact that the claimant's employment had been terminated on April 15, 2004. The claimant testified that had she not been terminated she "more than likely would have returned to work."

The questions of whether the claimant's compensable injury included the claimed conditions (by way of aggravation) and whether the claimant had disability presented questions 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). 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 her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. 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 certified self-insured)** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Chris Cowan
Appeals Judge