

APPEAL NO. 041869
FILED SEPTEMBER 20, 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 or include the diagnosed conditions of herniated discs at the L4-5, C3-4, or C5-6 levels, disc desiccation at the L-3 level, discogenic pain at L4-5, or radiculopathy, and that the claimant did not have disability.

The claimant appeals on a sufficiency of the evidence basis, contending that he is in constant pain, asserting the seriousness of his injury and referring to some of the medical reports. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant had sustained a compensable injury on _____, to his right elbow and to the lumbar, thoracic, and cervical levels of his spine in the form of sprains/strains. In a prior CCH held on January 8, 2004, this hearing officer determined that the claimant had sustained the stipulated compensable injury. That decision and order was affirmed in Texas Workers' Compensation Commission Appeal No. 040284, decided April 2, 2004. After the date of the claimant's compensable injury the claimant continued to work, although he was assigned a helper, until January 30, 2004, when a doctor took the claimant off work. The carrier points out that the claimant was taken off work about a week after the receipt of the hearing officer's decision and order in the prior case.

Although the extent-of-injury issue is phrased as to whether the claimant had certain herniated discs, there is no evidence that the claimant does, in fact, have herniations, as opposed to small disc bulges or protrusions. The hearing officer, in his Background Information, summarizes some of the medical evidence in some detail and concludes that there is insufficient evidence to show that the claimant's "discal anomalies are related to the compensable injury" and that diagnostic testing indicates "there is nothing unusual in the Claimant's spine inconsistent with his age and past activities of life." The hearing officer also commented that while the claimant's current treating doctor asserts the "injury is a job-related injury" there was no explanation or elaboration how that was so. We would also note that some of that doctor's reports are internally inconsistent.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were 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). We conclude that 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, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

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

JIM MALLOY
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge