

APPEAL NO. 042189
FILED OCTOBER 26, 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 August 10, 2004. The hearing officer determined that the _____, compensable injury of respondent (claimant) did not extend to and include the cervical, thoracic, and lumbar disc protrusions and a coccyx injury; that claimant did suffer cervical and lumbar sprain/strains and aggravated chronic lumbalgia; and that he had disability from December 18, 2003, through the date of the hearing. Appellant (carrier) appealed the disability determination on sufficiency grounds. Carrier also complains that the hearing officer found the injury extends to an aggravation of chronic lumbalgia even though there was not an issue of extent to that condition. Claimant responded that the hearing officer did not err in making his determinations.

DECISION

We affirm.

Carrier complains that the hearing officer exceeded his jurisdiction in deciding whether the injury extended to "aggravated chronic lumbalgia." There may be instances where it becomes necessary to make findings on the extent of the compensable injury in order to resolve other disputed issues. Texas Workers' Compensation Commission Appeal No. 010322, decided March 22, 2001; Texas Workers' Compensation Commission Appeal No. 032160, decided September 22, 2003. In this circumstance, we believe that it was necessary for the hearing officer to determine the extent of the compensable injury in order to resolve the disability issue.

We have reviewed the complained-of determination regarding disability and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The medical evidence from Dr. M, Dr. B, and claimant's testimony support the hearing officer's determination. We conclude that the hearing officer's disability determination is supported by the record and is 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.

According to information provided by carrier, the true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Edward Vilano
Appeals Judge