

APPEAL NO. 042243  
FILED OCTOBER 21, 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 4, 2004. The hearing officer determined that the appellant's (claimant) compensable right knee and left ankle injury of \_\_\_\_\_, does not extend to include a right ankle injury.

The claimant appeals, essentially on sufficiency of the evidence grounds, contending that the claimant's testimony and medical records as well as a cited Appeals Panel decision require a finding of a compensable follow-on injury. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable right knee and left ankle injury on \_\_\_\_\_. The claimant received treatment and physical therapy for her injuries. Diagnostic testing of the right knee was essentially negative. The claimant testified that on September 6, 2003, while walking on a flat surface at home her right knee locked up and she fell, injuring her right ankle. The claimant's treating doctor makes a conclusory statement that he has "no doubt" that the right ankle was injured due to the compensable right knee injury.

This case centers on the question of whether the claimant's right ankle injury naturally flowed or naturally arose from the \_\_\_\_\_, compensable right knee and left ankle injury. A follow-on injury may itself be compensable if it is the natural result of the original compensable injury. Maryland Casualty Company v. Sosa, 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e. per curiam 432 S.W.2d 515). In determining whether the subsequent injury is one that naturally flowed from the compensable injury, it is important to consider whether there was a distinct, nonwork-related activity involved in the subsequent injury, whether a distinct different body part was injured, the length of time between the injuries, whether there was only a degree of weakening or lowered resistance, and whether there was medical evidence to establish causation. Texas Workers' Compensation Commission Appeal No. 000594, decided May 8, 2000.

The claimant cites Texas Workers' Compensation Commission Appeal No. 031252, decided July 3, 2003, a case with similar facts. The carrier cites cases to the contrary. The hearing officer states that Appeal No. 031252, *supra*, is contrary to a long-standing line of well reasoned cases. Both parties ask us to rule as a matter of law in their favor. We decline to do so.

As the long line of cases suggest, follow-on cases tend to be fact specific. In this case the key fact found by the hearing officer, was that the locking of the right knee on September 6, 2003, was not caused by the right knee compensable injury of \_\_\_\_\_ . The hearing officer is the sole judge of the weight and credibility of the evidence and his determination is supported by the evidence. Although the evidence in Appeal No. 031252, *supra*, may have been similar, the facts as found by the hearing officer, based on the weight and credibility given to the evidence, does not mandate that all cases with similar evidence automatically will have the same result.

We have reviewed the complained-of determinations and 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 **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

\_\_\_\_\_  
Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge