

APPEAL NO. 042524
FILED NOVEMBER 17, 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 September 9, 2004. The hearing officer determined that the appellant (claimant) sustained a compensable injury on _____; that the claimant had disability from March 26 through April 20, 2004, "and at no other times" (prior to the CCH); and that the compensable injury does not extend to and include the claimant's right wrist, right shoulder, C5-6 and C6-7 disc protrusions. The hearing officer's determination on the compensable injury has not been appealed and has become final. Section 410.169.

The claimant appeals the extent-of-injury issue and the disability issue as affected by the extent-of-injury issue, asserting that while the claimed "body parts were treated prior to the injury" the fall worsened the conditions and that there was sufficient credible evidence to support a determination that the compensable injury included the claimed conditions. Respondent 1 (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant sustained a compensable injury when she tripped and fell forward on her right side down two steps on _____. The hearing officer, in the Background Information portion of his decision comments that the claimant "had ongoing medical issues prior to her fall on _____." The claimant on appeal contends the compensable fall "significantly worsened her condition" and that "new injuries can exacerbate old conditions."

That a new injury can exacerbate a preexisting condition is certainly true, however, whether the compensable fall injury either included or aggravated the claimed injuries only raised a question 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. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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 his 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 **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge