

APPEAL NO. 062351
FILED FEBRUARY 13, 2007

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 October 11, 2006. The hearing officer determined that the compensable injury of _____, does include radiculopathy, but does not extend to include lumbar spine degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; neural foraminal narrowing at L4-5 and L5-S1; facet arthrosis at L4-5; sclerosis; osteoporosis; and osteoarthritis. The hearing officer's determination that the compensable injury of _____, does include radiculopathy has not been appealed and has become final. Section 410.169. The hearing officer also determined that the respondent (carrier) had waived the right to contest compensability of appellant's (claimant) degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5, and L5-S1. The hearing officer's determination on the carrier waiver issue has also not been appealed and has become final.

The claimant appeals, contending that since the carrier waived the right to contest compensability of the degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5 and L5-S1, those conditions have become compensable as a matter of law. The file does not contain a response from the carrier.

DECISION

Reversed and rendered .

There were two issues at the CCH, one was whether the compensable injury included certain named conditions. The hearing officer after reviewing the evidence determined that the compensable injury included radiculopathy (not appealed), but that there was insufficient medical evidence to show a casual connection between the compensable injury and, among other conditions, degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5 and L5-S1.

Regarding the second issue of carrier waiver, the hearing officer determined that the carrier had waived the right to contest compensability of the claimant's degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5 and L5-S1, and as noted, that determination was not appealed. The hearing officer's determination in Conclusion of Law No. 4 and the decision portion of the decision and order that the compensable injury does not extend to the claimant's degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5 and L5-S1 is in error because those conditions have become compensable as a matter of law due to the carrier's waiver.

We reverse so much of Conclusion of Law No. 4 and the decision portion of the decision and order that hold that the compensable injury does not extend to include lumbar spine degenerative disc disease at L1, L4-5, and L5-S1; broad-based central disc protrusion at L5-S1; and neural foraminal narrowing at L4-5 and L5-S1 as being erroneous as a matter of law and render a new decision that the compensable injury of _____, does include the above named conditions.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Cynthia A. Brown
Appeals Judge

Margaret L. Turner
Appeals Judge