

APPEAL NO. 100539
FILED JUNE 23, 2010

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 April 1, 2010. The hearing officer resolved the sole disputed issue by deciding that the compensable injury of _____, does extend to the diagnoses of an L4-5 herniated disc, incomplete cauda equina syndrome with fecal and urinary incontinence and bilateral radiculopathy. The appellant (carrier) appealed, disputing the hearing officer's extent-of-injury determination. The respondent (claimant) responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable lumbar sprain/strain on _____. At issue was whether the compensable injury of _____, extended to the diagnoses of an L4-5 herniated disc, incomplete cauda equina syndrome with fecal and urinary incontinence and bilateral radiculopathy. The claimant testified that she stepped on a chair to repair a light when she was at work and fell on her back, landing on a tile floor.

That portion of the hearing officer's extent-of-injury determination that the compensable injury extends to the diagnoses of an L4-5 herniated disc and bilateral radiculopathy is supported by sufficient evidence and is affirmed.

In evidence was a radiology report dated January 7, 2009, of an MRI of the claimant's lumbar spine without contrast. The report notes that the "cauda equina appear[s] normal." There was conflicting evidence in the record regarding whether the claimant actually suffered from incomplete cauda equina syndrome with fecal and urinary incontinence. The claimant had the burden of proof to establish that the compensable injury included a diagnoses of incomplete cauda equina syndrome with fecal and urinary incontinence. The Appeals Panel has previously held that proof of causation must be established to a reasonable medical probability by expert evidence where the subject is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. Appeals Panel Decision 022301, decided October 23, 2002. See also Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980).

In the instant case, there was no expert medical evidence presented to establish that the claimant's fall at work caused the incomplete cauda equina syndrome with fecal and urinary incontinence. Since no expert medical evidence based on reasonable medical probability established how the claimant contracted incomplete cauda equina syndrome with fecal and urinary incontinence as a result of the compensable injury on

_____, we hold that portion of the hearing officer's determination that the claimed injury included incomplete cauda equina syndrome with fecal and urinary incontinence to be so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. We reverse that portion of the hearing officer's determination that the compensable injury included incomplete cauda equina syndrome with fecal and urinary incontinence and we render a new decision that the compensable injury does not include incomplete cauda equina syndrome with fecal and urinary incontinence.

SUMMARY

We affirm that portion of the hearing officer's extent-of-injury determination that the compensable injury extends to the diagnoses of an L4-5 herniated disc and bilateral radiculopathy.

We reverse that portion of the hearing officer's determination that the compensable injury included incomplete cauda equina syndrome with fecal and urinary incontinence and we render a new decision that the compensable injury does not include incomplete cauda equina syndrome with fecal and urinary incontinence.

The true corporate name of the insurance carrier is **HARTFORD FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3218.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica L. Ruberto
Appeals Judge