

APPEAL NO. 131363  
FILED AUGUST 16, 2013

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 May 7, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the compensable injury of [date of injury], does extend to disc herniations at L4-5 and L5-S1, annular tears at L4-5 and L5-S1, lumbar radiculitis and lumbar radiculopathy, and aggravation of degenerative disc disease. The appellant (carrier) appealed the hearing officer's determination. Respondent 1 (claimant) responded, urging affirmance. The file does not contain a response from respondent 2 (subclaimant).

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury at least in the form of a lumbar sprain on [date of injury]. The claimant testified that he was injured when bent over to pick up a carpet and heard a pop in his back and felt immediate pain.

That portion of the hearing officer's determination that the compensable injury of [date of injury], extends to disc herniations at L4-5 and L5-S1, annular tears at L4-5, lumbar radiculitis and lumbar radiculopathy, and aggravation of degenerative disc disease is supported by sufficient evidence and is affirmed.

That portion of the hearing officer's determination that the compensable injury of [date of injury], extends to an annular tear at L5-S1 is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. At the CCH, [Dr. P] testified that the diagnostic studies did not show an impression of an annular tear at L5-S1. In evidence is an MRI of the lumbar spine dated March 18, 2011, which shows an impression of an annular tear at L4-5, but not an annular tear at L5-S1. A medical report dated March 6, 2013, from [Dr. T] states that he reviewed the MRI dated March 18, 2011, and noted that there was an annular tear at L4-5. Dr. T does not reference an annular tear at L5-S1. In evidence is a subsequent MRI of the lumbar spine dated September 17, 2012, which shows disc desiccation and bulging at L5-S1, but not an annular tear at L5-S1.

Although the claimant's treating doctor, [Dr. L], in a causation letter dated January 27, 2013, states that the mechanism of injury resulted in disc herniation and annular tearing at L4-5 and L5-S1, the diagnostic studies show that there is an annular

tear at L4-5, but not at L5-S1. The condition of an annular tear at L5-S1 is a condition that requires expert evidence to establish a causal connection with the compensable injury. See City of Laredo v. Garza, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing Guevara v. Ferrer, 247 S.W.3d 662 (Tex. 2007). In this case, Dr. L does not explain in his causation letter why he believes the compensable injury caused an annular tear at L5-S1, given that the diagnostic tests do not show that an annular tear at L5-S1 exists. Dr. L's causation letter is not sufficient expert medical evidence to establish causation between the compensable injury and an annual tear at L5-S1. Accordingly, we reverse the hearing officer's determination that the compensable injury of [date of injury], extends to an annular tear at L5-S1 and we render a new decision that the compensable injury of [date of injury], does not extend to an annular tear at L5-S1.

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

**RICHARD GERGASKO, PRESIDENT  
6210 HIGHWAY 290 EAST  
AUSTIN, TEXAS 78723.**

---

Veronica L. Ruberto  
Appeals Judge

CONCUR:

---

Carisa Space-Beam  
Appeals Judge

---

Margaret L. Turner  
Appeals Judge