

APPEAL NO. 110209
FILED APRIL 18, 2011

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 January 19, 2011.

The hearing officer resolved the disputed issues by determining that: 1) the compensable injury of _____, extends to left carpal tunnel syndrome (CTS); chronic pain syndrome; depression; and reflex sympathetic dystrophy (RSD)/chronic regional pain syndrome (CRPS);¹ and 2) the appellant (carrier) has not waived the right to contest compensability of depression and RSD/CRPS by not timely contesting the diagnoses in accordance with Sections 409.021 and 409.022.

The carrier appealed the hearing officer's extent-of-injury (EOI) determination. The respondent (claimant) responded, urging affirmance. The hearing officer's waiver determination has not been appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed in part and reversed and rendered in part.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that she slipped and fell at work, hurting her left foot, left hand and left shoulder. The medical evidence reflects that the claimant has been diagnosed with left CTS; chronic pain syndrome; depression; and RSD/CRPS.

That portion of the hearing officer's determination that the compensable injury of _____, extends to chronic pain syndrome; depression; and RSD/CRPS is supported by sufficient evidence and is affirmed.

The hearing officer found that the claimant sustained left CTS as a natural and direct result of her compensable injury of _____. We note that there is no discussion in the hearing officer's decision and order regarding that finding, although the hearing officer stated that the claimant had "endoscopic left carpal tunnel release in February 2007." The conclusion that a slip and fall injury would cause CTS is a matter beyond common knowledge or experience and in this specific unusual situation would require expert medical evidence. See *generally*, Guevara v. Ferrer, 247 S.W.3d 662 (Tex. 2007).

¹ We note that many of the medical records in evidence use the terms chronic regional pain syndrome and complex regional pain syndrome interchangeably and use the abbreviation (CRPS) to denote each of these terms.

The claimant underwent an MRI of the left wrist and the report dated August 9, 2006, gives the following impression:

Moderate degree findings, which may reflect the clinical [CTS] and further correlation is needed.

The claimant then underwent an upper extremity (UE) EMG/NCV and the report dated August 15, 2006, gives the following impressions:

NCV IMPRESSION: Abnormal because of the prolonged sensory latency with stimulation of the left median, left ulnar, left dorsal cutaneous and left radial nerves indicating probable trauma or entrapment of these nerves at the wrist. The slowing in the left median nerve in the wrist to palm segment indicates probable trauma or entrapment of this nerve in this segment. The slowing in the left ulnar nerve between the elbow and wrist indicates probable trauma or entrapment of this nerve in the forearm. Further clinical correlation is recommended.

* * * *

EMG IMPRESSION: These abnormalities suggest a C8 radiculopathy on the left. Further clinical correlation is recommended.

Also in evidence is an EMG/NCV report dated March 9, 2007, in which the findings are abnormal but clinical correlation is strongly suggested.

The claimant was referred by her treating doctor, (Dr. G) to (Dr. BY) regarding left hand CTS. In a report dated September 15, 2006, Dr. BY assessed the claimant with left CTS, probably post-traumatic; however, no medical explanation linking the diagnosis to the work injury of _____, is provided by Dr. BY within that report or his subsequent reports dated October 27, 2006, or November 22, 2006. Dr. G's medical record dated April 5, 2007, indicates that Dr. BY performed left wrist carpal tunnel surgery on January 25, 2007.

The Texas Department of Insurance, Division of Workers' Compensation (Division) appointed (Dr. B) initially as a designated doctor to determine maximum medical improvement and impairment rating (IR). Subsequently, the Division appointed Dr. B to determine EOI. Dr. B examined the claimant on May 23, 2007, and in a report² dated that same day, stated that the compensable injury extends to RSD of the UE, RSD of the lower extremity, and prolonged depressive reaction. Dr. B does not opine that the compensable injury of _____, extends to left CTS. We note that there is

² We note that Dr. B's report purports to be nine pages in length and page three of nine was not admitted into evidence.

no evidence that subsequent designated doctors appointed in this claim by the Division were to address EOI.³

In reviewing a “great weight” challenge, we must examine the entire record to determine if: (1) there is only “slight” evidence to support the finding; (2) the finding is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust; or (3) the great weight and preponderance of the evidence supports its nonexistence. See Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Other than the diagnostic testing and mere recital of the diagnosis of left CTS, no medical evidence was presented to link the claimant’s left CTS to the compensable injury of _____. Given the facts of this case, the hearing officer’s determination that the compensable injury of _____, extends to left CTS is so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Accordingly, we reverse the hearing officer’s determination that the compensable injury of _____, extends to left CTS and render a new decision that the compensable injury of _____, does not extend to left CTS.

SUMMARY

We affirm the hearing officer’s decision that the compensable injury of _____, extends to chronic pain syndrome; depression; and RSD/CRPS.

We reverse the hearing officer’s decision that the compensable injury of _____, extends to left CTS and render a new decision that the compensable injury of _____, does not extend to left CTS.

³ The Division appointed (Dr. M) as a designated doctor to determine causation and IR and examined the claimant on August 25, 2008. A third designated doctor, (Dr. S) was appointed by the Division to address IR and examined the claimant on May 20, 2010.

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
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3232.**

Cynthia A. Brown
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge