

APPEAL NO. 002898

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 December 6, 2000. The hearing officer resolved the disputed issues of injury and disability by deciding:

1. The appellant (claimant herein) sustained a compensable injury on \_\_\_\_\_; and
2. The claimant had disability beginning June 7, 2000, and ending July 21, 2000.

The claimant appeals, contending that the hearing officer's resolution of the disability issue was contrary to the evidence and that the hearing officer erroneously found that the claimant's injury was only to her low back. The respondent (carrier herein) replies that the Appeals Panel should affirm the decision of the hearing officer.

DECISION

Affirmed as reformed.

There was conflicting evidence presented at the CCH on the disputed issue of disability. The hearing officer's determination on the issues is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Neither party appeals the determination that the claimant suffered a compensable injury on \_\_\_\_\_. The claimant argues that the hearing officer erroneously found that the claimant's compensable injury was limited to an injury of her low back. We note that the issues reported out of the benefit review conference were injury and disability. There was no issue on extent of injury. We have encouraged hearing officers to indicate the nature of the injury when determining whether an injury existed. However, we have also stated that it is not appropriate for a hearing officer to make a final determination on the issue of extent of injury when the issue of extent of injury is not before the hearing officer. See Texas Workers' Compensation Commission Appeal No. 001239, decided July 13, 2000. In the present case we consider all findings by the hearing officer concerning the extent of the claimant's injury to be beyond the scope of the issue before her and we consider them surplusage. We reform her decision to reflect that the claimant suffered a compensable injury on \_\_\_\_\_, to her low back, but strike all language in her decision limiting the claimant's injury to an injury to the low back.

The decision and order of the hearing officer are affirmed as reformed.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Robert W. Potts  
Appeals Judge