

APPEAL NO. 002940

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 November 15, 2000. With regard to the issue before her, the hearing officer determined that the compensable injury sustained by the respondent (claimant) on _____, extended to a disc bulge at L4-5 and L5-S1, and posterior annular tearing with neurogenic claudication. The appellant (self-insured) appeals this determination.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury sustained by the claimant extended to subsequently diagnosed disc bulges at L4-5 and L5-S1, and posterior annular tearing with neurogenic claudication. Conflicting evidence was presented at the hearing regarding the extent of the compensable injury. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The opinion of the treating doctor could be accepted as probative expert evidence. The hearing officer is the sole judge of the weight and credibility of the evidence including the medical evidence, Section 410.165(a); *and see Texas Employers Insurance Association v. Campos*, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. *Garza v. Commercial Insurance Company of Newark, New Jersey*, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, an appeals panel should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986).

There is sufficient evidence in the record to support the hearing officer's decision. Accordingly, we affirm the decision and the order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Kenneth A. Huchton
Appeals Judge