

APPEAL NO. 010304

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). On November 21, 2000, and January 10, 2001, a hearing was held. On the sole issue, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury to his lumbar spine on _____.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained a compensable head and cervical spine injury. The hearing officer did not err in determining that the claimant did not sustain a compensable injury to his lumbar spine on _____. The claimant had the burden to prove that his lumbar injury arose out of and in the course and scope of his employment on _____. See Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer's determination 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 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge