

## APPEAL NO. 010362

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 22, 2001. With respect to the single issue before her, the hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, extended to his mid-back but that it did not extend to his low back. In his appeal, the claimant contends that the hearing officer's determination that his compensable injury did not extend to his low back is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. The carrier did not appeal the hearing officer's determination that the claimant's compensable injury extended to his mid-back.

### DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not extend to his low back. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer was acting within her role as the fact finder in determining that the claimant did not sustain his burden of proving that his compensable injury extended to his low back. Nothing in our review of the record indicates that the hearing officer's extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In his appeal, the claimant asserts error in the hearing officer's having admitted Carrier Exhibit No. 5 because it was not timely exchanged. The claimant did not object to the admissibility of Exhibit No. 5 at the hearing and, as such, did not preserve any error related to the admission of that exhibit.

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge