APPEAL NO. 010649

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 March 7, 2001. The hearing officer resolved the disputed issue by determining that the appellant's (claimant) compensable injury did not extend to include the C5-6 and C6-7 substantial cervical spondylosis with substantial stenosis at each level. The claimant appeals and seeks reversal on sufficiency of the evidence grounds. The respondent (carrier) responds and urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not extend to include the C5-6 and C6-7 substantial cervical spondylosis with substantial stenosis at each level. The carrier introduced evidence in the form of medical records which showed that the claimant received treatment for degenerative problems at C5-6 and C6-7 prior to her compensable injury in 1992. In addition, the carrier introduced the designated doctor's opinion that the claimant's current condition was "not at all related to [her] compensable injury." Conversely, the claimant testified that, while she had cervical problems and treatment for them prior to her compensable injury, her compensable injury "exacerbated" her prior cervical condition to the extent that she now requires spinal surgery. The claimant also testified that her previous cervical condition did not cause as much pain as her present cervical condition.

The parties presented conflicting evidence on the disputed issue. Pursuant to Section 410.165(a) of the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). This tribunal will not disrupt the contested findings of a hearing officer unless they are 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not find them so here.

For these reasons, we affirm the hearing officer's decision and order.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge