

## APPEAL NO. 010715

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 6, 2001. The hearing officer resolved the disputed issues by determining that the respondent's (claimant) compensable injury of \_\_\_\_\_, did extend to and include an aggravation or acceleration of the claimant's degenerative disc disease. The appellant (carrier) appeals and urges reversal based on the insufficiency of the evidence. The claimant responds and urges the Appeals Panel to affirm the hearing officer's decision and order in all respects.

### DECISION

Affirmed.

The hearing officer did not err in concluding that the claimant's compensable injury of \_\_\_\_\_, extended to include an aggravation or acceleration of the claimant's degenerative disc disease and spinal stenosis. Evidence on the record supporting the hearing officer's determination includes the testimony of the claimant that he had no similarly severe low back pain prior to \_\_\_\_\_, and the medical records indicating acute trauma to the claimant's low back. The carrier challenged one of the doctor's relating the claimant's need for surgery to his \_\_\_\_\_ injury, and argued instead that the evidence is just as compelling that it was necessitated by his preexisting degenerative disc disease and severe spinal stenosis.

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.

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Michael B. McShane  
Appeals Judge