

APPEAL NO. 010908  
FILED JUNE 20, 2001

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 26, 2001. With respect to the issues before him, the hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, is not a producing cause of a bulging disc at L5-S1 and that the claimant did not have disability as a result of his compensable injury. In his appeal, the claimant argues that the hearing officer's extent-of-injury and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury is not a producing cause of the disc bulge at L5-S1 and that the claimant did not have disability as a result of his compensable lumbar strain injury. Extent of injury and disability are questions of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and to determine what facts the evidence has established. 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 sufficiency of the evidence, we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). In this instance, the hearing officer was not persuaded that the claimant sustained his burden of proving the causal connection between his work-related injury and the disc bulge at L5-S1 or that he had disability as a result of his lumbar strain injury. The hearing officer resolved the conflicts and inconsistencies in the evidence against the claimant and he was acting within his province as the fact finder in so doing. Nothing in our review of the record demonstrates that the hearing officer's extent-of-injury and disability determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge