

APPEAL NO. 010946  
FILED JUNE 14, 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 April 10, 2001. With respect to the single issue before her, the hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, did not extend to a lumbar spine injury. In her appeal, the claimant essentially argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. The appeal file does not contain a response to the claimant's appeal from the respondent (carrier).

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not extend to the lumbar spine. Extent of injury is a question 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, there was conflicting evidence on the issue before the hearing officer. The hearing officer resolved that conflict against the claimant and determined that the claimant failed to meet her burden of proving that her compensable injury extended to the lumbar spine. The hearing officer was acting within her province as the fact finder in so doing. Nothing in our review of the record demonstrates that the hearing officer's determination that the claimant's compensable injury does not extend to or include the lumbar spine is 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 the hearing officer's extent-of-injury determination 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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Judy L. S. Barnes  
Appeals Judge

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Robert E. Lang  
Appeals Panel  
Manager/Judge