

APPEAL NO. 011042
FILED JUNE 25, 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 (CCH) was held on April 18, 2001. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) sustained a compensable cervical injury in addition to the compensable burn injury on _____, but that he did not sustain a compensable lumbar or left knee injury. The appellant (carrier) appealed the hearing officer's determination of a compensable cervical injury and the claimant responded, requesting affirmance. There is no appeal of the hearing officer's determination that the claimant did not sustain a compensable lumbar or left knee injury.

DECISION

The hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable cervical injury in addition to the compensable burn injury on _____. It is undisputed that the claimant sustained a compensable burn injury on _____, when hot asphalt struck his leg and face. The hearing officer found that at the time of the injury, the claimant jerked backwards, injuring his neck. The carrier appeals the hearing officer's decision that the claimant sustained a compensable cervical injury in addition to the compensable burn injury on _____. Conflicting evidence was presented at the CCH on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision is supported by the claimant's testimony and the reports of his treating doctor. The hearing officer's decision that the claimant sustained a compensable cervical injury is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge