

APPEAL NO. 011082
FILED JUNE 26, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on April 16, 2001. The hearing officer resolved the sole disputed issue by determining that the appellant's (claimant) compensable injury of _____, does not extend to and include the cervical and thoracic spine, as well as the sacroiliac joint strain/sprain. The claimant has requested review, asserting that the medical evidence established that his compensable injury included the cervical and thoracic spinal regions and that the respondent (carrier) had paid for treatment of these body parts. The carrier responds that the evidence is sufficient to support the decision.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to and include the cervical and thoracic spine, as well as the sacroiliac joint strain/sprain. The claimant testified that he was injured on that date when he fell several feet off a backhoe, striking his knee on the backhoe and landing on his back on the ground. The medical evidence of the extent of the injury was in conflict. Dr. M opined in a September 7, 2000, report that it was definitely reasonable that the claimant injured his thoracic and cervical spine regions given that the claimant fell flat on his back and head. In a November 7, 2000, report, Dr. W stated that the claimant "has simply a lumbar sprain" and that he did not feel that the claimant has any injury to his cervical spine, thoracic spine, shoulder, or pelvis. Dr. B, the treating doctor, noted on November 29, 2000, that the claimant's spinal condition was "doing quite well" with the exception of some tightness and spasm in muscles around the cervicothoracic region and lumbar spine.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb a challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. 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).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge