

APPEAL NO. 011254
FILED JULY 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 in two sessions on February 8, and February 15, 2001. The record closed on February 15, 2001. In Texas Workers' Compensation Commission Appeal No. 010499, decided April 13, 2001, we remanded the case to the hearing officer for reconstruction of the record because the parties' exhibits were not included in the record. On remand, the parties resubmitted their exhibits and no further hearing was held. With respect to the single issue before him, the hearing officer determined that the claimant's _____ compensable injury does not extend to the cervical spine. In her appeal, the claimant essentially argues that the hearing officer's extent-of-injury determination is 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 did not extend to her cervical spine. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer considered the mechanism of injury, the delayed onset of cervical complaints recorded in the medical records, and the conflicting nature of the medical evidence relating to the cause of the claimant's cervical problems. Those factors were properly considered by the hearing officer in assessing the weight and credibility to be given to the evidence. The hearing officer was acting within his role as the fact finder in determining that the claimant did not sustain her burden of proof on the extent issue. Nothing in our review of the record indicates that the hearing officer's determination that the compensable injury did not extend to the claimant's cervical spine is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge