

APPEAL NO. 011307
FILED JULY 24, 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 May 8, 2001. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not include the lumbar disc bulges at L3-4 and L4-5, degenerative disc disease, and ligamentum flavum hypertrophy; that the Texas Workers' Compensation Commission has jurisdiction to determine the issue of extent of injury; and that the claimant has not had disability resulting from the "_____ [sic], compensable injury other than that which had previously been determined." The claimant appealed the hearing officer's decision on the issues of extent of injury and disability, and the respondent (carrier) responded.

DECISION

As reformed herein, the hearing officer's decision is affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not include the lumbar disc bulges at L3-4 and L4-5, degenerative disc disease, and ligamentum flavum hypertrophy. There were conflicting medical opinions with regard to the extent-of-injury issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder 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 on the extent-of-injury issue 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.

We reform the hearing officer's decision with regard to the disability issue to substitute the correct date of injury, _____, for the incorrect date of _____. In a previous decision, the Appeals Panel affirmed the hearing officer's decision from a prior CCH held on March 28, 2000, that the claimant had disability from May 21, 1999, through June 1, 1999. At the CCH held on May 8, 2001, the claimant contended that he had disability from May 23, 2000, through August 13, 2000. Conflicting evidence was presented on this issue and the hearing officer found that the claimant's inability to obtain and retain employment at his preinjury wage from May 23, 2000, through August 13, 2000, was not due to his compensable injury. The hearing officer's decision on the disability issue, as reformed herein to reflect the correct date of 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.

The hearing officer's decision and order, as reformed herein, is affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Gary Kilgore
Appeals Judge

Michael B. McShane
Appeals Judge