

APPEAL NO. 011334
FILED JULY 30, 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 May 17, 2001. With respect to the issue before her, the hearing officer determined that the respondent's (claimant) compensable injury does not extend to or include an injury to the cervical spine, but it does extend to and include reflex sympathetic dystrophy (RSD). In its appeal, the appellant (carrier) contends that insufficient evidence supports the hearing officer's determination that the claimant's compensable injury extends to and includes RSD. The appeal file does not contain a response to the carrier's appeal from the claimant. In addition, the claimant did not appeal the determination that her compensable injury does not extend to and include an injury to the cervical spine and that determination has, therefore, become final. Section 410.169.

DECISION

Affirmed.

The issue of whether the claimant's compensable injury extends to and includes RSD presented a question of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The carrier contends that the hearing officer's injury determination that the claimant's compensable injury extends to RSD is not supported by sufficient evidence. The claimant's treating doctor opined that "unquestionably" the claimant's RSD was caused by the compensable injury. A thoracic, cardiac, and vascular surgeon to whom the treating doctor referred the claimant confirmed the diagnosis of RSD and agreed that it was related to the claimant's compensable injury. That evidence provides sufficient evidentiary support for the hearing officer's extent-of-injury determination. The hearing officer was acting within her province as the fact finder in deciding to give more weight to the evidence from the treating doctor and the referral doctor than to contrary evidence from the carrier casting doubt on the diagnosis of RSD and the causal connection between any RSD and the compensable injury. Our review of the record does not demonstrate that the challenged determination 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 reverse the determination that the claimant's compensable injury extends to and includes RSD on appeal. Cain; Pool.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge