

APPEAL NO. 011382
FILED JULY 26, 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 22, 2001. The hearing officer determined that the respondent's (claimant) compensable injury extended to the cervical spine. The appellant (carrier) filed an appeal, contending that the hearing officer's determination is not supported by sufficient evidence, and in the alternative, is contrary to the great weight and preponderance of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

The evidence sufficiently supports the hearing officer's determination that the claimant's compensable injury extends to the cervical spine. At the CCH, the parties stipulated that the claimant sustained a compensable injury on _____. The hearing officer determined from the claimant's testimony and the medical reports in evidence that the claimant's compensable injury sustained on _____, extended to the cervical spine.

The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. The hearing officer determined from the medical reports in evidence by the second treating doctor that the claimant had pain to her cervical area as a result of the compensable injury. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). We will reverse the factual determinations of a hearing officer only if those determinations are 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, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

Michael B. McShane
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge