

APPEAL NO. 011435
FILED AUGUST 2, 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 June 5, 2001. The hearing officer determined that the appellant's (claimant) compensable injury of _____, did not extend to and include an injury to the cervical spine. The claimant filed a request for review. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The evidence sufficiently supports the hearing officer's determination that the claimant's compensable injury of _____, did not extend to and include an injury to the cervical spine. At the CCH, the parties stipulated that the claimant sustained a compensable injury on _____. The hearing officer determined that the claimant's testimony and the medical reports in evidence did not support the claimant's assertion that the 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. 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:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge