

APPEAL NO. 011585
FILED AUGUST 22, 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 December 5, 2000, and April 26, 2001. With respect to the disputed issues, the appellant (self-insured) appealed the hearing officer's determination that the compensable injury extends to the right elbow, neck, and back, contending that there is no evidence or insufficient evidence to support that determination. The respondent (claimant) responds, urging affirmance. The hearing officer's determinations that the self-insured was not estopped from disputing the extent of injury to the right elbow and that the self-insured has not waived the right to dispute the extent of injury to the right elbow have not been appealed and will not be addressed further.

DECISION

The hearing officer's decision is affirmed.

"Compensable injury" is defined in Section 401.011(10). The claimant testified that she was injured at work on _____, when she was stocking vacuum cleaners for her employer while on a ladder and one vacuum cleaner in a box came off the shelf, causing her to twist and bend while attempting to support the box with both hands. The claimant said that the accident caused her to have pain in her back, neck, and right upper extremity. It is undisputed that the claimant sustained a compensable injury to her right shoulder. The issue before the hearing officer regarded the extent of the compensable injury. Conflicting evidence was presented regarding the extent of the compensable injury. 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 weight to be given to the claimant's testimony, the conflicting medical opinions, and the videotape was for the hearing officer to determine as the finder of fact. The claimant's current treating doctor wrote that the videotape did not change his opinion regarding the claimant's medical condition. The hearing officer determined that the claimant's compensable injury extends to her right elbow, neck, and back. We have held that the question of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The hearing officer's decision is supported by the claimant's testimony and the reports of her treating doctors and referral doctors. The hearing officer's decision that the claimant's compensable injury extends to her right elbow, neck, and back 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 are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Judge