

APPEAL NO. 011782
FILED SEPTEMBER 20, 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 in Tyler, Texas, on July 13, 2001. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of _____, includes the claimant's current low back condition. The appellant (carrier) appealed. No response was received from the claimant.

DECISION

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

Stipulation 1.D. is reformed to reflect that the parties stipulated that on December 14, 1999, the employer had workers' compensation insurance with Argonaut Southwest Insurance Company, carrier.

The parties stipulated that the claimant sustained a compensable low back injury on _____. Conflicting evidence was presented at the CCH on the disputed issue of whether the compensable injury of _____, includes the claimant's current low back condition. 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. The hearing officer's decision is supported by the claimant's testimony, the opinion of the claimant's treating doctor, and the opinion of the doctor who examined the claimant at the carrier's request. The hearing officer's decision that the compensable injury of _____, includes the claimant's current low back condition 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 do not find that the hearing officer abused his discretion in denying the carrier's motion for continuance or its request to change the disputed issue that was identified in the benefit review conference (BRC) report. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE Sections 142.10(b) and 142.7(e). We also do not find that the carrier has shown that it was denied due process of law by the hearing officer's denial of its request to change the disputed issue that was identified in the BRC report or in addressing and deciding the disputed issue that was identified in the BRC report.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ARGONAUT SOUTHWEST INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JOSEPH A. YANKOVICH
1431 GREENWAY DRIVE, SUITE 450
IRVING, TEXAS 75038.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge