

APPEAL NO. 012129  
FILED OCTOBER 1, 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 July 15, 2001. (The Decision and Order indicates that the CCH was held on July 3, 2001, but that is an administrative error.) The record was reopened to obtain the required documentation of the respondent's (carrier) true corporate name and registered agent for service of process.

In a single hearing dealing with two claims, the hearing officer determined that the appellant (claimant) did not sustain compensable injuries on \_\_\_\_\_, or on \_\_\_\_\_. The claimant has appealed. His request for review contains only the docket number for the claimed injury of \_\_\_\_\_, but the appealed findings of fact and conclusion of law pertain to the claimed injury of \_\_\_\_\_. The carrier points to the docket number on the request for review as indicating that the claimant is only appealing the hearing officer's determinations as to the claimed injury of \_\_\_\_\_. We will not construe the claimant's appeal to limit it to the docket number listed, when it is obvious that the claimant is appealing the determinations as to the claimed injury of \_\_\_\_\_. The claimant's appeal appears to be on sufficiency of the evidence grounds, as he takes issue with the hearing officer's interpretation of the evidence. We conclude that, despite listing the docket number for the claimed injury of \_\_\_\_\_, the claimant has only appealed the claimed injury of \_\_\_\_\_. The findings and conclusions as to the claimed injury of \_\_\_\_\_, have not been appealed and have become final. Section 410.169.

DECISION

Affirmed.

The claimant submitted numerous items along with his appeal. Most were duplicates of evidence which was admitted at the CCH. There were five pages of materials attached to the appeal which were not previously admitted. They are a notice in Spanish which provides information about workers' compensation coverage with the employer; a copy of Claimant's Exhibit No. 13, a statement which was withdrawn from evidence at the CCH because the author was present and testified as to its content; a form entitled Explanation of Benefits (TWCC-62); a health insurance claim form for a visit on June 5, 2001; and an outpatient registration form (dated June 5, 2001), providing the claimant's consent to a discogram and post CT scan. We generally do not consider matters raised for the first time on appeal, and this additional documentation does not appear to be newly discovered evidence. These items will not be considered.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on \_\_\_\_\_. The claimant had the burden to prove that he sustained damage or harm to the physical structure of the body, arising out of and in the course and scope of his employment. Texas Workers' Compensation Commission Appeal No. 91028,

decided October 23, 1991. There was conflicting evidence presented in this case, including what exactly the injury is, whether it was a work related injury, and when the alleged injury happened. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate-reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ACE USA** and the name and address of its registered agent for service of process is

**MARCUS MERRITT  
VICE-PRESIDENT OF ACE USA  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Robert W. Potts  
Appeals Judge