

APPEAL NO. 012405
FILED NOVEMBER 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 August 31, 2001. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury sustained by respondent 1 (claimant) on _____, does not extend to and include the lower thoracic and upper lumbar spine; (2) the claimant sustained a compensable injury to his thoracic and lumbar spine on October 23, 2000; and (3) the claimant had disability (from the October 23, 2000, compensable injury) from October 24, 2000, through the date of the CCH. The appellant (carrier 1), who is the workers' compensation carrier for the October 23, 2000, injury, appealed. The claimant responded, requesting affirmance. No response was received from respondent 2 (carrier 2), who is the workers' compensation insurance carrier for the _____, injury. The parties stipulated to the claimant's average weekly wage.

DECISION

The hearing officer's decision is affirmed.

On _____, the claimant sustained a compensable injury when he slipped and fell at work. As a result of that injury, he had cervical surgery at the C4-5 and C5-6 levels in October 1998, and lumbar surgery at the L4-5 level in September 1999. The claimant returned to work, and on _____, while performing his work duties, he felt a pop in the middle of his back when picking up a bucket of water. Numerous medical opinions were in evidence. Three doctors have opined that the claimant sustained a new injury on _____. The doctor to whom the Texas Workers' Compensation Commission referred the claimant indicated that the new injury of _____, involves the lower thoracic area and the upper lumbar area, and that these areas are not related to the claimant's preexisting condition. The claimant's treating doctor for the _____, injury took the claimant off work and has not released him to return to work. Although there was conflicting evidence at the CCH with regard to the disputed issues, it was for the hearing officer as the finder of fact to resolve the conflicts in the evidence and determine what facts had been established. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We conclude that the hearing officer's determinations on the appealed issues are supported by sufficient evidence and are not 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 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier 1 is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

The true corporate name of the insurance carrier 2 is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Philip F. O'Neill
Appeals Judge