

APPEAL NO. 012491
FILED NOVEMBER 15, 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 September 13, 2001. She determined that the compensable injury sustained by the respondent (claimant) on _____, includes the cervical spine. The appellant (carrier) urges on appeal that this determination is against the great weight and preponderance of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

The carrier contends that the hearing officer erred in determining that the compensable injury extends to the claimant's cervical spine because the medical evidence does not establish such injury, because no expert medical evidence was presented to establish a causal connection between the two, and because the claimant was not credible. Extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Generally, corroboration of an injury is not required and may be found based upon a claimant's testimony alone. Gee v. Liberty Mutual Fire Insurance Co., 765 S.W.2d 394 (Tex. 1989). Lay testimony is sufficient to establish causation where, based upon common knowledge, a fact finder could understand a causal connection between the employment and the injury. Texas Workers' Compensation Commission Appeal No. 941464, decided January 9, 1995. The hearing officer's decision reflects that she understood the causal connection between the claimant's fall and injury to the cervical spine. Additionally, the hearing officer does not indicate in her decision that the claimant's cervical injury was considered to be an aggravation of a preexisting injury, as alleged by the carrier on appeal. The claimant's testimony and medical evidence documenting an injury to the cervical spine support the hearing officer's disputed findings.

Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. Determining the credibility of witnesses is the province of the hearing officer. Texas Workers' Compensation Commission Appeal No. 92657, decided January 15, 1993. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). 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, 702 (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, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ).

An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to 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 Co., 715 S.W.2d 629, 635 (Tex. 1986). We are satisfied that the evidence sufficiently supports the determination that the compensable injury extends to the claimant's cervical spine.

The decision and order of the hearing officer are affirmed.

The true corporate name of the self-insured is **SECURITY NATIONAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DONALD GENE SOUTHWELL
10000 N. CENTRAL EXPRESSWAY
DALLAS, TEXAS 75262.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge