

APPEAL NO. 013030
FILED JANUARY 29, 2002

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 November 14, 2001. In resolving the sole issue before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, did not extend to and include cervical intervertebral disc (IVD) displacement and cervical subluxations at multiple levels. The claimant, seeking reversal, appealed the determination on sufficiency grounds and also argued that the hearing officer incorrectly excluded a piece of evidence she offered. We find no response from the respondent (carrier) in the appeals file.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, did not extend to and include cervical IVD displacement and cervical subluxations at multiple levels. The parties presented conflicting evidence on this issue. We have reviewed the issue and conclude that it involved fact questions for the hearing officer. The hearing officer resolved those questions in favor of the carrier. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). We have held that extent of injury is a fact question for the hearing officer. Texas Workers' Compensation Commission Appeal No. 960407, decided April 10, 1996. The hearing officer reviewed the record and resolved what facts were established. We conclude that the hearing officer's determination is sufficiently supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Regarding the claimant's argument that the hearing officer should have admitted into evidence her proffered Exhibit No. 9, we review such evidentiary matters under an abuse of discretion standard. An abuse of discretion occurs where the decision maker acts without reference to any guiding rules and principals. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). Upon our review of the record, we find that the hearing officer did not abuse his discretion in excluding the proffered exhibit based on the claimant's untimely exchange of the document without good cause. Further, the hearing officer allowed the document's use in the claimant's closing argument.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HARTFORD ACCIDENT & INDEMNITY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge