

APPEAL NO. 020692
FILED MAY 13, 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 February 22, 2002. The hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include her right shoulder and neck. The claimant appeals, contending that the hearing officer "has made an error" because although the hearing officer "found an injury" to the claimant's neck and shoulder, he did not find the injury compensable. The claimant also complains that the hearing officer admitted into evidence and relied on an inaccurate tape recording. There is no response from the respondent (self-insured).

DECISION

Affirmed.

The hearing officer did not err in admitting the recorded statement of the claimant. Further, there is no showing that the admission or exclusion was, in fact, an abuse of discretion or that the error was reasonably calculated to cause and probably did cause the rendition of an improper judgment. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; see *also Hernandez v. Hernandez*, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ).

The issue before the hearing officer regarded the extent of the compensable injury. We have held that the question of the extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. *Johnson v. Employers Reinsurance Corp.*, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. *Rowland v. Standard Fire Ins. Co.*, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). Our review of the record reveals that the hearing officer's determination is supported by sufficient evidence and it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CB
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Roy L. Warren
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Robert W. Potts
Appeals Judge