

APPEAL NO. 020711
FILED MAY 9, 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 (CCH) was held on February 27, 2002. The hearing officer determined that the compensable injury of _____, does extend to and include the respondent's (claimant) low back; that the claimant is entitled to change treating doctors to Dr. P pursuant to Section 408.022; and that the claimant does have disability as a result of the compensable injury, beginning August 16, 2001, and continuing through to the date of the CCH. The appellant (carrier) appeals on evidentiary sufficiency grounds. The claimant replies, urging affirmance.

DECISION

Affirmed.

The carrier's appeal essentially reiterates the same arguments that were made before the fact finder: that the claimant's evidence was insufficient; that the claimant was not credible; that the medical records and objective tests do not support a low back injury; that the claimant changed treating doctors for the sole purpose of obtaining a new report or opinion or to continue receiving temporary income benefits; and that the claimant did not have disability after July 6, 2001. As noted above, the hearing officer made determinations adverse to the carrier on each of the issues.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. 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 (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 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse the factual determinations of a hearing officer only if such determinations are 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, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the witnesses and the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **GREAT AMERICAN INSURANCE COMPANY OF NEW YORK** and the name and address of its registered agent for service of process is

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

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge