

APPEAL NO. 020802
FILED MAY 14, 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 March 6, 2002. The hearing officer resolved the sole disputed issue by determining that the _____, compensable injury does not extend to and include an injury to the cervical spine and left shoulder. In his appeal, the appellant (claimant) essentially argues that the hearing officer's extent-of-injury determination is against the great weight of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the _____, compensable injury does not extend to and include an injury to the cervical spine and left shoulder. Extent of injury is a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. 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. A review of the hearing officer's decision demonstrates that he was not persuaded that the evidence presented by the claimant was sufficient to sustain his burden of proving that his compensable injury included cervical and left shoulder injuries. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record reveals that the hearing officer's extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In his appeal, the claimant asserts error in the hearing officer's having considered Carrier's Exhibit No. 15, a surveillance videotape. The claimant asserts that he is not the person depicted in the videotape. Although the claimant's attorney made the same assertion, he did not specifically object to Carrier's Exhibit No. 15 at the hearing. Accordingly, the claimant did not preserve any error associated with the admission of the exhibit.

The claimant also attached a document to his appeal which was not admitted in evidence at the hearing. We decline to consider the evidence submitted by the claimant for the first time on appeal. See Texas Workers' Compensation Commission Appeal No. 992873, decided February 4, 2000.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE CONNECTICUT INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

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

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Judge