APPEAL NO. 021027
FILED JUNE 10, 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 27, 2002. The hearing officer resolved the disputed issue by concluding that the appellant's (claimant) compensable injury of _____, does not extend to and include a diffuse annular disc bulge at L4-5 and at L5-S1. The claimant appeals, arguing that the hearing officer failed to consider all the evidence and apply the proper evidentiary standard for proving causation. In its response, the respondent (carrier) argues that the hearing officer's determination is supported by legally and factually sufficient evidence.

DECISION

Affirmed.

The sole issue before the hearing officer was whether the claimant's compensable injury included a diffuse annular bulge at L4-5 and at L5-S1. We have held that the question of extent of injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. We find no merit in the claimant's assertions that the hearing officer failed to consider all of the evidence and failed to apply the proper evidentiary standard. A review of the hearing officer's decision demonstrates that she considered the conflicting evidence. The same doctor who the claimant argues noted back pain two months after the incident also concluded in correspondence dated December 3, 2001, that the claimant's complaints of back pain "have yet to be attributable to this injury."

The claimant argues that his testimony concerning the way the accident occurred was undisputed and that he described how the pain spread up and down his leg and to his back through the course of his treatment. While a claimant's testimony alone may be sufficient to prove an injury, the testimony of a claimant is not conclusive but only raises a factual issue for the trier of fact. Texas Workers' Compensation Commission Appeal No. 91065, decided December 16, 1991. The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993.

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). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATE SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Michael B. McShane
Appeals Judge

CONCUR:

_____
Susan M. Kelley
Appeals Judge

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Robert W. Potts
Appeals Judge