

FILED

JUN 24 2002

**DIRECTOR
DIVISION OF HEARINGS
TEXAS WORKERS'
COMPENSATION COMMISSION**

APPEAL NOS. 021170
AND 021429

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 April 29, 2002, in Texas, with presiding as hearing officer. The hearing officer determined that appellant 1 (claimant) sustained a compensable injury (bruising to both knees) on ; that the claimant did not have disability as a result of the , compensable injury; and that the compensable injury of includes L4-5 and L5-S1 disc disruption with herniated discs after . The claimant appeals the hearing officer's determination, contending that she has a new lumbar injury as of , not just a recurrence of symptoms from her injury, and that she has disability from the new lumbar injury. Appellant 2 (carrier 1) appeals, asserting that the hearing officer erred in finding (1) that the claimant suffered a recurrence of the symptoms of her preexisting lumbar injuries when she tripped and fell on , but did not sustain an aggravation injury to her lumbar

spine; (2) that the claimant did not have disability from the compensable bilateral knee injuries sustained on _____; and (3) that the claimant's trip and fall of _____, did not break the causal connection between the claimant's 1998 injury and the condition of the claimant's lumbar spine after _____, and that the compensable injury of 1998 includes L4-5 and L5-S1 disc disruption with herniated discs after _____. The respondent (carrier 2) replied to the claimant's appeal, urging affirmance of the hearing officer's determinations. Neither of the other parties responded to carrier 1's appeal.

DECISION

Affirmed.

The hearing officer resolved the extensive and conflicting evidence in this case as noted above. 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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and determine what facts have been established. 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 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. 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 for that of the hearing officer.

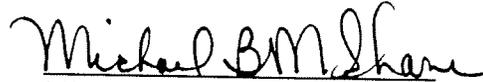
We affirm the decision and order of the hearing officer.

The true corporate name of insurance carrier 1 is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

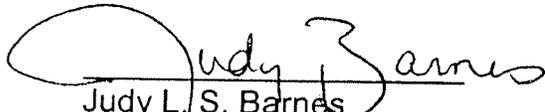
**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

The true corporate name of insurance carrier 2 is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**


Michael B. McShane
Appeals Judge

CONCUR:


Judy L. S. Barnes
Appeals Judge


Roy L. Warren
Appeals Judge