

APPEAL NO. 021251  
FILED JULY 3, 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 April 17, 2002. The following issues were in dispute: (1) Did the claimant sustain a compensable injury on \_\_\_\_\_? and (2) Did the claimant have disability as a result of the injury of \_\_\_\_\_, and, if so, for what period? The hearing officer determined that (1) the appellant (claimant) sustained a compensable thoracic strain injury on \_\_\_\_\_, but did not sustain a compensable injury to his neck or cervical spine; and (2) the claimant had disability from December 14, 2001, through January 18, 2002, but not from December 10, 2001 through December 13, 2001, or from January 19, 2002, to the date of the hearing. The claimant appeals the injury determination with regard to the neck and cervical spine. The claimant asserts that the issue of whether he sustained an injury to his neck or cervical spine was not before the hearing officer and the hearing officer erred in addressing the matter. Alternatively, the claimant asserts that the appealed determination is against the great weight of the evidence. No response was filed to the claimant's appeal. The hearing officer's determinations regarding the thoracic strain injury and the period of disability were not appealed and have, therefore, become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury to his neck or cervical spine. Despite the claimant's assertion to the contrary, our review of the record reveals that the claimant repeatedly argued at the hearing that he sustained a compensable injury to the neck and cervical spine in the course and scope of his employment on \_\_\_\_\_. In his closing statement, the claimant specifically requests that the hearing officer find that he sustained a compensable injury to his "back and neck." Whether the claimant sustained a work-related injury to his neck on \_\_\_\_\_, was a question of fact for the hearing officer resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231-4813.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Daniel R. Barry  
Appeals Judge