

APPEAL NO. 022266  
FILED OCTOBER 16, 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 August 12, 2002. The hearing officer determined that the respondent's (claimant) compensable right shoulder, right hip, right chest and rib injury extended to and included an injury to the lumbar spine, but did not extend to include depression and an injury to the left leg; and that the claimant's average weekly wage (AWW) is \$135.93. The hearing officer's determinations on the AWW and that the compensable injury does not include depression and an injury to the left leg have not been appealed and have become final. Section 410.169.

The appellant (carrier) appeals the hearing officer's determination that the compensable injury extends to the lumbar spine on the basis that the injury initially reported to the employer did not mention the lumbar spine. The file does not contain a response from the claimant.

DECISION

Affirmed.

The claimant, a steward and cook, sustained a compensable injury on \_\_\_\_\_, when he slipped and fell in some grease. Several reports from the treating doctor state "within reasonable medical probability" that the injury includes the low back. The carrier relies on the initial emergency room report and a peer review report that the compensable injury does not include the low back. 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. 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). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the decision and order of the hearing officer are affirmed.

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

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

---

Thomas A. Knapp  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Michael B. McShane  
Appeals Judge