APPEAL NO. 022336
FILED OCTOBER 24, 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 28, 2002. The hearing officer determined that the appellant's (claimant) compensable low back strain injury does not include lumbar spondylosis or grade one spondylolisthesis and that the claimant does not have disability.

The claimant appeals, contending that he has continuously had back pain since his compensable injury and the compensable injury includes spondylosis and spondylolisthesis. The claimant also contends that he has disability. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant, a truck driver, sustained a compensable low back injury lifting a battery on _____. The claimant was treated and returned to work at full duty. Whether or not the claimant continued to work in pain is disputed. The claimant received no additional medical treatment until he sought treatment from Dr. H on December 12, 2001. In a note of that date, Dr. H comments that the claimant has "a one year history of back pain. He says he lifted some batteries about a year ago and had back pain which resolved. It recurred about two or three weeks ago. . . . X rays show a spondylisis and grade 1 spondylolisthesis at L5/S1." (Emphasis added.) A subsequent MRI showed "a 2 mm annular bulge" at L5-S1. The hearing officer commented that the "seminal question . . . is whether the claimant's spondylolisthesis at L5-S1 is the result of the [compensable] injury on _____, or whether this is a separate and distinct problem." The hearing officer found no casual connection between the _____, compensable injury and the claimed current conditions. The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). An appeals-level body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Company v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ).

We have reviewed the record in this case and find sufficient support for the conclusions of the hearing officer, who acted as the sole judge of the weight, credibility, materiality, and relevance of the evidence. Section 410.165(a).

Accordingly, the hearing officer's decision and order on both issues are affirmed.

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

CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Susan M. Kelley
Appeals Judge