

APPEAL NO. 022359
FILED OCTOBER 7, 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 (claimant) has not sustained compensable thoracic outlet syndrome (TOS), and that the 13% impairment rating (IR) assigned by the Texas Workers' Compensation Commission-selected designated doctor is correct. The claimant appealed on sufficiency of the evidence grounds and the respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that his compensable injury extended to or included TOS. The hearing officer was not persuaded by the claimant's evidence that his condition is the result of his underlying compensable injury. 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)). Our review of the record reveals that the hearing officer's extent-of-injury determination is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant's appeal of the IR is predicated upon the inclusion of TOS in the compensable injury. Since we have affirmed the hearing officer's determination that the compensable injury does not extend to or include TOS, we likewise affirm the determination that the claimant's correct IR is 13%, in accordance with the report of the designated doctor.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

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

Michael B. McShane
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge