

APPEAL NO. 022554
FILED NOVEMBER 20, 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 (CCH) was held on September 4, 2002. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury does not extend to or include disc herniations at the L2-3 and L4-5 intervertebral levels of his lumbar spine, and that the claimant did not have disability resulting from the compensable injury to his mouth. The claimant has submitted a request for review, which will be treated as an appeal on sufficiency of the evidence grounds. The claimant additionally states in his appeal that his knowledge of the English language is limited and requests that a new hearing be held with an interpreter present. The respondent (carrier) responded, maintaining that the determinations of the hearing officer were supported by the evidence presented at the CCH.

DECISION

Affirmed.

The record reflects that the claimant initially requested that a Spanish speaking interpreter be provided at the CCH but that the Texas Worker's Compensation Commission was unable to obtain an interpreter due to a scheduling conflict. The claimant was represented by an attorney at the CCH. When asked by the hearing officer if the claimant wanted to proceed, the claimant's attorney stated that he discussed it with his client and they wanted to proceed without an interpreter. Additionally, the carrier's attorney asked the claimant during cross-examination if there was something he asked that the claimant did not understand and the claimant replied, "That's it. I understand." Any potential error was waived by the claimant's agreement to proceed without the aid of an interpreter and his failure to object at any time during the proceeding.

The parties stipulated that the claimant sustained a compensable injury on _____, to his mouth. Extent-of-injury and disability issues present factual determinations for the hearing officer to resolve. 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 as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We are satisfied that the evidence sufficiently supports the hearing officer's determinations that the claimant's compensable injury does not extend to or include disc herniations at the L2-3 and L4-5 intervertebral levels of his lumbar spine, and that the claimant did not have disability resulting from the compensable injury to his mouth.

We affirm the decision and order of the hearing officer.

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.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge