

APPEAL NO. 022731  
FILED DECEMBER 11, 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 September 30, 2002. With respect to the sole issue before him, the hearing officer determined that the appellant/cross-respondent's (claimant) compensable injury of \_\_\_\_\_, extends to and includes esophagitis, chronic gastritis, and dysphagia, but does not extend to nor include hiatal hernia, duodenitis, or distal esophageal stricture. In his appeal, the claimant argues that the evidence was not sufficient to support the hearing officer's determinations against him. The respondent/cross-appellant (carrier) challenged the hearing officer's determinations on sufficiency grounds, and responded to the claimant's appeal, urging that the hearing officer be affirmed on his excluding hiatal hernia, duodenitis, or distal esophageal stricture from the claimant's compensable injury.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable (back and neck) injury on \_\_\_\_\_. The hearing officer did not err in determining that the claimant's compensable injury extends to and includes esophagitis, chronic gastritis, and dysphagia, but does not extend to nor include hiatal hernia, duodenitis, or distal esophageal stricture. The claimant argued that all of these conditions were caused by the prescribed medicines, mostly non-steroidal anti-inflammatory drugs (NSAIDs) his doctors ordered for his compensable neck and low back injury. In his reports, the claimant's treating doctor, Dr. R, noted that, in his opinion, the dysphagia, esophagitis, and gastritis were caused by the NSAIDs the claimant was prescribed for his compensable injury. The carrier argued that the claimant had failed to present sufficient expert medical evidence to show a nexus between the medication and the conditions at issue. The hearing officer decided that the medical reports from Dr. R sufficiently linked the claimant's esophagitis, chronic gastritis, and dysphasia to his NSAIDs for his compensable injury, but did not show a causal connection to his hiatal hernia, duodenitis, or distal esophageal stricture.

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. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). 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). 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); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). We do not find so here.

The decision and order of the hearing officer are affirmed.

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

**PRENTICE-HALL CORPORATION SYSTEMS, INC.  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Veronica Lopez  
Appeals Judge

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Robert W. Potts  
Appeals Judge