

APPEAL NO. 023042
FILED JANUARY 8, 2003

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 October 23, 2002. The hearing officer determined that the respondent's (claimant) compensable lumbar sprain/strain (and right hand) injury "extends to and/or includes" a lumbar disc injury at L5-S1, and that the Texas Workers' Compensation Commission (Commission) has jurisdiction to determine the issue of extent of injury to the lumbar spine.

The appellant (carrier) appealed the extent-of-injury issue. Although prevailing on the jurisdictional issue, the great majority of the carrier's appeal continues on an argument regarding the hearing officer's theory that carrier waiver should have been the issue rather than *res judicata* (i.e. jurisdiction). The file does not contain a response from the claimant.

DECISION

Affirmed.

As indicated, the carrier prevailed on the issue of whether its stipulation that the claimant sustained a compensable spinal injury in a prior spinal surgery case is *res judicata* and precludes the carrier from disputing extent of injury in this case. In that the carrier has prevailed on that issue we decline to render what would amount to an advisory opinion regarding the merits of the carrier's argument.

On the issue of extent of injury, although no medical evidence specifically states that the compensable injury was a cause of the herniated disc, the hearing officer could certainly infer that to be the case from the substantial medical evidence, including spinal surgery for a herniated disc at the L5-S1 level. The fact that the hearing officer failed to discuss the medical evidence or even make the "pro forma statement that all evidence was considered" does not constitute grounds for reversal of the hearing officer's decision. The other medical evidence pertaining to whether the claimant only had a lumbar sprain/strain or a herniated disc at L5-S1 was in conflict and the hearing officer resolved that conflict in the claimant's favor. Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Roy L. Warren
Appeals Judge