

APPEAL NO. 023238
FILED FEBRUARY 7, 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 (CCH) was held on November 1, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable low back injury on _____, and that the claimant had disability from July 25, 2002, to the date of the CCH.

The appellant (carrier) appealed, basically on sufficiency of the evidence grounds, emphasizing the claimant's prior long-standing back complaints and asserting no new specific injury on _____. The claimant responded, urging affirmance, stating that the carrier doesn't understand what is "intermittent peripheral claudication."

DECISION

Affirmed.

The claimant, a nurse assigned to work at a prison, testified that on _____, she was walking up some stairs, and when she stepped and turned she felt an intense searing pain from her waist down her left leg into her foot. It is undisputed that the claimant had a long history (at least since 1999) of low back pain. Whether that pain was due to claudication or spinal problems was in dispute. Two sets of lumbar spine MRIs were taken (one on November 20, 2001, the other on July 29, 2002). Whether they showed only disc bulges or herniations is in dispute. The hearing officer commented that "the herniation revealed by the 2002 MRI was not present in 2001." The circumstances regarding the claimant's claim are also in dispute.

The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). 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); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** 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:

Susan M. Kelley
Appeals Judge

Roy L. Warren
Appeals Judge