

APPEAL NO. 030006
FILED FEBRUARY 14, 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 November 18, 2002. Resolving the sole disputed issue before him, the hearing officer decided that the respondent's (claimant) compensable injury of _____, includes an injury to the cervical spine due to aggravation of a preexisting C5-6 disc bulge with ossific ridging. The appellant (carrier) challenged the hearing officer's decision on sufficiency of the evidence grounds, and the claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in concluding that the claimant's compensable injury of _____, includes an injury to the cervical spine due to aggravation of a preexisting C5-6 disc bulge with ossific ridging. The claimant testified, and the hearing officer found, that on the date of injury, when the claimant attempted to lift a crate weighing more than he expected, he initially had back pain, but reported his neck (cervical) pain to his employer and to his doctor within three days of the injury. While the parties presented conflicting evidence, the medical evidence does support the claimant's allegation, and the hearing officer's determination, that the claimant aggravated a preexisting injury to his cervical region, resulting in some stenosis, which his doctors say could be life threatening.

Extent of injury is a factual question for the hearing officer to decide. 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). 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). Based upon our review of the record, we find no error in the hearing officer's determination.

The decision and order of the hearing officer are affirmed.

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.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge