

APPEAL NO. 030694
FILED MAY 6, 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 February 12, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to or include injury to the lumbar spine. The claimant appeals the extent-of-injury determination on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed

Extent of injury is a factual question for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). It was undisputed that the claimant sustained a compensable injury to his right foot on _____, that necessitated the use of crutches for a four-week period. In this instance, the hearing officer was not persuaded that the claimant sustained his burden of proving the causal connection between his compensable injury, including the use of crutches, and the degenerative lumbar disc disease at L3-4 and L4-5 as well as a herniated disc at L5-S1. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record reveals that the hearing officer's extent-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MIKE MARINO
225 EAST JOHN CARPENTER FREEWAY, SUITE 1100
IRVING, TEXAS 75062.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge