

APPEAL NO. 031008
FILED MAY 20, 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 April 9, 2003. The hearing officer resolved the disputed issue by deciding that the compensable injury does not extend to a low back injury. The appellant (claimant) appealed, essentially on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

We first note that the case file contains a lengthy letter from the claimant's treating doctor. The letter is dated May 5, 2003, subsequent to the date of the CCH, and was received by the Texas Workers' Compensation Commission's Chief Clerk of Proceedings on May 12, 2003. The letter purports to be an appeal on behalf of the claimant, but was not attached to the appeal filed by the claimant, and there is no indication that the claimant is even aware that the treating doctor wrote the letter, or otherwise authorized the release of the medical information contained in the letter. The treating doctor did not sign the letter "on behalf of the claimant," nor was he a party at the CCH, and there is no evidence, nor any allegation, that he is a subclaimant pursuant to Section 409.009. We will disregard the letter from the treating doctor.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to a low back injury. Extent of injury is a question of fact. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant for the first time on appeal alleges that his son was not allowed to testify at the hearing. Our review of the record does not disclose that the claimant requested that his son be allowed to testify or that the hearing officer refused to allow any witness to testify at the CCH.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica Lopez
Appeals Judge