APPEAL NO. 031751
FILED AUGUST 5, 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 June 16, 2003. The hearing officer decided that on _____, the appellant (claimant) did not sustain a compensable injury and that because there was no compensable injury there can be no disability. The claimant appeals, essentially contending the hearing officer's decision is against the great weight of the evidence. The respondent (carrier) responds to the appeal urging affirmance.

DECISION

Affirmed.

At the outset we note that the carrier questions whether the claimant has sufficiently appealed the decision of the hearing officer because the claimant "fails to identify the specific Findings of Fact or Conclusions of Law with which he is dissatisfied." *See* Section 410.202(c). We have liberally construed the meaning of what "clearly and concisely" rebutting a decision is. When an unrepresented claimant states in writing, in any language, that he "disagrees" with the hearing officer's decision, it meets the criteria of the statute and the rule. Texas Workers' Compensation Commission Appeal No. 931142, decided January 31, 1994; Texas Workers' Compensation Commission Appeal No. 960933, decided June 27, 1996; Texas Workers' Compensation Commission Appeal No. 951084, decided August 9, 1995; and Texas Workers' Compensation Commission Appeal No. 94973, decided September 1, 1994. Consequently, the claimant's appeal meets the criteria of the statute and the rule.

The claimant, a route salesman who tended vending machines for the employer, contends that he sustained a low back injury on _____, while he was placing a tote bag onto a dolly. The claimant admitted that he had two previous injuries to his low back and had already been told on (12 days prior to the claimed injury), that he needed spinal surgery because of his back condition. The claimant did in fact have spinal surgery on May 29, 2001. The admission records indicate that the claimant is "admitted with complaints of low back and left leg pain, related to a motor vehicle accident on 8/17/2000." Although the claimant testified that he told his treating doctor about the _____, injury on his next scheduled visit, on May 24, 2001, there is no mention of the alleged new injury in the doctor's medical records until July 19, 2001.

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). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex.

App.-Houston [14th Dist.] 1984, no writ). 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 manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In that we are affirming the hearing officer's determination that the claimant did not sustain a compensable injury, the claimant cannot, by definition in Section 401.011(16), have disability.

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 SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Michael B. McShane
Appeals Panel
Manager/Judge

_____
Edward Vilano
Appeals Judge