

APPEAL NO. 031782
FILED AUGUST 11, 2003

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 030995, decided May 22, 2003, for reconstruction of the record. A hearing on remand was held on June 11, 2003. With respect to the issue before him on remand, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include reflex sympathetic dystrophy (RSD) and lumbar radiculopathy. In her appeal, the claimant essentially argues that the hearing officer's determination in that regard is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not extend to and include RSD or lumbar radiculopathy. The claimant had the burden to prove that her _____, compensable injury included those conditions. That issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained her burden of proving that her compensable injury included RSD and lumbar radiculopathy. The hearing officer was acting within his province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICA FIRST INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge