

APPEAL NO. 031791
FILED AUGUST 13, 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 June 13, 2003. The hearing officer resolved the disputed issues by deciding that the compensable injury of _____, does extend to and include an injury to the thoracic spine and left shoulder and that the respondent (claimant) does have disability beginning on November 6, 2002, through the date of the CCH. The appellant (carrier) appealed, disputing both the extent-of-injury and disability determinations. The claimant responded, urging affirmance.

DECISION

Affirmed.

It was undisputed that the claimant sustained a compensable injury on _____. At issue was whether the compensable injury extended to include an injury to the thoracic spine and left shoulder and whether the claimant had disability. Extent of injury and disability are factual questions for the fact finder 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 Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). There is sufficient evidence to support the hearing officer's extent-of-injury and disability determinations. The hearing officer found the claimant sufficiently credible and although another fact finder might not have done so, that is not a sound basis for us to reverse the hearing officer's decision. Salazar, et al. v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). There was conflicting evidence presented at the hearing on the issues. The hearing officer weighed the credibility and inconsistencies in the evidence and the hearing officer's determination on the issues is not 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).

We affirm the decision and order of the hearing officer.

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

**RICK KNIGHT
105 DECKER COURT, SUITE 600
IRVING, TEXAS 75062.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge