

APPEAL NO. 032122
FILED SEPTEMBER 22, 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 July 10, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to include a herniation at C3-4 or C5-6. The claimant appealed on sufficiency of the evidence grounds. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that his compensable injury extends to include a herniation at C3-4 and C5-6. The claimant argues that the overwhelming weight of the evidence supports a finding that the claimant's _____, compensable injury extends to and includes a cervical disc herniation at C3-4 and C5-6. Additionally the claimant argues that it was error for the hearing officer to determine the claimant's condition was an ordinary disease of life, citing Texas Workers' Compensation Commission Appeal No. 970100, decided February 28, 1997. We disagree. In the instant case, it was undisputed that the claimant sustained a compensable lumbar and right leg injury as a result of a specific incident. At issue was whether the compensable injury extended to include a herniation at C3-4 and C5-6. The hearing officer noted that the mention of the neck in the medical records were long after the incident which resulted in the compensable injury. The hearing officer found that the incident of _____, was not a producing cause of the claimant's cervical spine disc pathology nor was the cervical spine disc pathology a natural result of his right leg and low back injury. The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). There is conflicting evidence in this case. 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). Our review of the record reveals that the hearing officer's extent-of-injury determination is supported by sufficient evidence and that it is not 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, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**EF
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Robert W. Potts
Appeals Judge