

APPEAL NO. 032625
FILED NOVEMBER 21, 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 September 8, 2003. The hearing officer determined that the respondent's (claimant) March 14, 2000, compensable injury extends to and includes his lumbar and cervical spine herniations from L2 to L5-S1 and C5 to C7, and lumbar stenosis from L3 to L5. The appellant (carrier) appealed, essentially disputing the manner in which the hearing officer gave weight to the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Extent of injury is a factual question for the hearing officer to resolve. Conflicting evidence was presented regarding this issue. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (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, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). The hearing officer noted that the claimant's testimony was generally credible and that both the testimony and the medical evidence establish that the claimant has consistently complained of his neck, low back, and left knee due to the injury. Dr. L opined in a report dated August 27, 2001, that "based upon the patient history, examination, and objective testing, it is within reasonable medical probability that [the claimant's] injury caused his left knee condition, caused his bulging discs in his cervical spine, and severely aggravated and worsened his spinal degeneration." The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

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

**CHARLIE MILLER
10370 RICHMOND AVENUE
HOUSTON, TEXAS 77042.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge