

APPEAL NO. 032670
FILED NOVEMBER 25, 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 August 27, 2003. The record closed on September 5, 2003. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to include lumbar disc displacement, spinal stenosis at L3-4 and L4-5, a focal left posterolateral annular tear and disc protrusion at L4-5, and/or a mild right posterolateral disc protrusion at L5-S1 in contact with the right traversing S1 nerve root; and that the claimant did not have disability, as a result of his compensable injury, from August 9, 2002, through the date of the hearing.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not extend to include lumbar disc displacement, spinal stenosis at L3-4 and L4-5, a focal left posterolateral annular tear and disc protrusion at L4-5, and/or a mild right posterolateral disc protrusion at L5-S1 in contact with the right traversing S1 nerve root, and that he did not have disability from August 9, 2002, through the date of the hearing. The claimant had the burden of proof on those issues and they presented questions of fact for the hearing officer. There was conflicting evidence presented on the disputed issues. 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 his burden of proof on either the extent-of-injury or disability issues. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determinations are 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 those determinations 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 **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge