

APPEAL NO. 032701
FILED NOVEMBER 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was held on September 12, 2003. The hearing officer resolved the disputed issues by deciding that respondent 1's (claimant) compensable injury of _____, does not extend to or include a low back injury after (subsequent date of injury); that the claimant sustained a compensable injury to his low back on or about (subsequent date of injury); and that from December 11, 2002, through the date of the CCH, the claimant had disability as a result of his (subsequent date of injury), compensable injury. The appellant (carrier 2) appeals the hearing officer's determinations on all of the disputed issues, contending that the evidence establishes that the claimant did not sustain any compensable new injury to his low back on (subsequent date of injury). The claimant and respondent 2 (carrier 1) assert that sufficient evidence supports the hearing officer's decision.

DECISION

Affirmed.

Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, the claimant's testimony and the reports of the treating doctor and the referral doctor who performed the claimant's back surgery in May 2003 support the hearing officer's decision. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are 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 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of insurance carrier 1 is **LUMBERMENS MUTUAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

The true corporate name of insurance carrier 2 is **ABF FREIGHT SYSTEM, INC (a certified self-insured)** and the name and address of its registered agent for service of process is

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

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Edward Vilano
Appeals Judge