

APPEAL NO. 033258
FILED FEBRUARY 9, 2004

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 scheduled for October 14, 2003, but was continued to and held on November 12, 2003. The hearing officer determined that the respondent's (claimant) _____, compensable injury includes a herniated disc at L5-S1. The appellant (carrier) appeals the hearing officer's decision and asserts that the hearing officer erroneously admitted, over its objection, Claimant's Exhibit Nos. 2, 6, and 7. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The carrier argues that the hearing officer erroneously admitted Claimant's Exhibit Nos. 2 and 7 because portions of those exhibits had been highlighted by the claimant. The carrier does not assert that the exhibits were altered. Rather, it simply argues that the highlighting "tainted" the evidence. We perceive no error in the hearing officer's admission of the partially highlighted documents. See Texas Workers' Compensation Commission Appeal No. 020562, decided April 30, 2002.

The carrier objected to Claimant's Exhibit No. 6 on the basis that a doctor from Mexico created the document and that it had not been translated in its entirety. We are unaware of any authority, and the carrier points to none, that precludes the admission of a medical record created by a doctor from Mexico. As for the argument regarding the translation, the hearing officer explained that she perceived the complained-of words in the document to be in the nature of typographical errors and offered the carrier the opportunity to prove that the translation provided was inaccurate; however, the carrier stated that it had no obligation to translate the document to ensure its accuracy. We perceive no error in the admission of Claimant's Exhibit No. 6 and would also point out that there is no indication that the hearing officer relied on it in making her decision.

Extent of injury was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is 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).

The decision and order of the hearing officer are affirmed.

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

**ROBIN MOUNTAIN
6600 CAMPUS CIRCLE DRIVE, EAST, SUITE 300
IRVING, TEXAS 76053.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge