APPEAL NO. 033282
FILED FEBRUARY 5, 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 (CCH) was held on December 4, 2003. The hearing officer decided that the compensable injury sustained by the appellant (claimant herein) on _____, does not include bilateral carpal tunnel syndrome; fractured coccyx; headaches; an injury to the right leg; MRI findings of the lumbar spine dated August 2, 2000 (central disc protrusion of the L5/S1 level without any nerve root displacement; mild multifactorial spinal stenosis at the L5/S1 level); and/or MRI findings of the cervical spine dated October 4, 2002 (narrowing of the neural foramen on the right at C4-5 and C5-6 attributed to uncovertebral joint hypertrophic change). The claimant appeals, contending that the decision of the hearing officer is contrary to the evidence. The respondent (carrier herein) replies that the claimant's appeal is inadequate to invoke the jurisdiction of the Appeals Panel in that the claimant's request for review misidentifies the issues and misstates the facts. The carrier also contends that the evidence supports the decision of the hearing officer.

DECISION

Finding that the jurisdiction of the Appeals Panel has been invoked and sufficient evidence to support the decision of the hearing officer with no reversible error in the record, we affirm the decision and order of the hearing officer.

The claimant's request for review correctly states that extent of injury was in issue but incorrectly states that disability was an issue at the CCH. The request for review states that the hearing officer's decision is contrary to the great weight and preponderance of the evidence, but when describing the evidence, obviously is talking about the evidence in an entirely different claim. No particular form of appeal is required and an appeal, even though terse or inartfully worded, will be considered. Texas Workers' Compensation Commission Appeal No. 91131, decided February 12, 1992; Texas Workers' Compensation Commission Appeal No. 93040, decided March 1, 1993. Generally, an appeal that lacks specificity will be treated as a challenge to the sufficiency of the evidence. Texas Workers' Compensation Commission Appeal No. 92081, decided April 14, 1992. We consider the claimant's appeal to be a minimally sufficient challenge to the sufficiency of the evidence supporting the hearing officer's decision regarding the extent of the claimant's injury.

We have held that the question of the extent of an injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. 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). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

In the present case, there was simply conflicting evidence, and it was the province of the hearing officer to resolve these conflicts. While there was certainly conflicting medical evidence, applying the above standard of review, we find that the hearing officer's decision was sufficiently supported by the evidence in the record.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** 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.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Thomas A. Knapp
Appeals Judge