

APPEAL NO. 033332
FILED FEBRUARY 17, 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 held on November 19, 2003. The hearing officer determined that the respondent's (claimant) _____, compensable injury extends to include osteomyelitis of the left lower extremity. The appellant (self-insured) appeals this determination. The appeal file contains no response from the claimant.

DECISION

Affirmed.

The self-insured complains on appeal that the hearing officer made "selective" findings of fact. Findings of fact are the basis for the hearing officer's decision and, as such, will naturally tend to reflect the position of the prevailing party. The carrier also complains that in the Statement of the Evidence, the hearing officer improperly rejected the opinion of Dr. O. We disagree. The hearing officer explained that the three reports of Dr. O were inconsistent and the evidence supports the hearing officer's perception in this regard. The Statement of the Evidence reasonably reflects the record in this case.

Extent of injury was a factual question for the hearing officer to resolve. 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 hearing officer was satisfied that the expert medical evidence established a causal connection between the compensable injury and the osteomyelitis. 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 **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**RC
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge