APPEAL NO. 040776
FILED JUNE 1, 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 March 10, 2004. The hearing officer determined that the respondent's (claimant herein) compensable injury extends to include cervical herniation at C4-5, lumbar herniation at L4-S1, lumbar radiculopathy, and right shoulder internal derangement, and that the claimant was entitled to change treating doctors to Dr. G. The appellant (carrier herein) files a request for review challenging these determinations. The claimant responds that the decision of the hearing officer should be affirmed.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

We first address the extent-of-injury determinations. Extent of injury is a factual question for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This includes the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In this instance, the hearing officer was persuaded that the claimant sustained his burden of proving the causal connection between his compensable injury and the complained-of injuries. 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 hearing officer's extent-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We next address the claimant's right to change treating doctors. The record contains an Employee's Request to Change Treating Doctors (TWCC-53) signed by the claimant in which the claimant stated that he had not changed treating doctors and desired to change treating doctors because the doctor treating him was the company doctor and that the treating doctor had released him to work while he was still on crutches. The claimant testified that Dr. G's office completed the TWCC-53 as the claimant is unable to read and write. The Texas Workers' Compensation Commission approved this request. At the CCH the claimant testified that one of his reasons for changing doctors was that the treating doctor was not treating all of his injury. The hearing officer found that the claimant "changed treating doctors for a proper purpose and did not do so to secure a better medical report." The hearing officer concluded that

the claimant was entitled to change treating doctors. We cannot say that the hearing officer's factual finding was contrary to the great weight and preponderance of the evidence or that the hearing officer abused her discretion. We, therefore, find no basis to reverse the hearing officer resolution of the change of treating doctor issue.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.

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Gary L. Kilgore
Appeals Judge

CONCUR:

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Thomas A. Knapp
Appeals Judge

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Robert W. Potts
Appeals Judge