

APPEAL NO. 040844
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 was held on March 11, 2004. The hearing officer determined that the respondent's (claimant) _____, compensable injury extends to include a herniation at L4-5 and bulging at L5-S1. The appellant (carrier) asserts that the hearing officer exceeded the scope of the issue presented for resolution and appeals the extent-of-injury determination. The claimant urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The issue presented for resolution was whether the compensable injury extends to include herniations at L4-5 and L5-S1? The carrier asserts that the hearing officer erred in determining that the injury includes bulging at L5-S1, as that issue was not before him. We disagree. The hearing officer was essentially asked to resolve the extent of the injury with regard to the two levels of the lumbar spine. We perceive no error in his determination that the compensable injury includes bulging, as opposed to a herniation, at L5-S1.

Extent of injury is 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)). 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 **MID CENTURY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**FRED WERKENTHIN
JACKSON WALKER, L.L.P.
100 CONGRESS AVENUE, SUITE 1100
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge