

APPEAL NO. 040943
FILED JUNE 7, 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 April 8, 2004. The hearing officer determined that the appellant's (claimant) injury (lumbar sprain/strain) sustained on _____, does not extend to include degenerative disc disease at L5-S1 without significant canal or foraminal stenosis, spondylolysis at L5, and spondylolisthesis at L5-S1. The claimant appealed the hearing officer's extent-of-injury determination. Additionally, the claimant appealed issues of injury and disability that were not certified or litigated at the CCH. The respondent (self-insured) responded, urging affirmance of the extent-of-injury determination, and asserted that issues of injury and disability were not at issue or discussed at the CCH.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable lumbar sprain/strain injury on _____. The sole issue before the hearing officer was whether the claimant's injury sustained on _____, extends to include degenerative disc disease at L5-S1 without significant canal or foraminal stenosis, spondylolysis at L5, and spondylolisthesis at L5-S1. The extent-of-injury determination involved a question of fact 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 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. As such, no sound basis exists for us to disturb the hearing officer's determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Our review of the record indicates that the parties stipulated that the claimant sustained a compensable lumbar sprain/strain injury on _____, and that disability was not an issue certified or litigated at the CCH, and that the hearing officer did not make any determinations on these issues. In view of the evidence presented, we decline to consider the claimant's appeal regarding injury and disability.

We affirm the decision and order of the hearing officer.

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

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

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge