

APPEAL NO. 041016
FILED JUNE 16, 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 12, 2004. With respect to the issues before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include a left femoral neck fracture, and that the claimant did not have disability as a result of his _____, compensable injury. In his appeal, the claimant argues that the hearing officer's extent-of-injury and disability determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, does not extend to and include a left femoral neck fracture. The claimant had the burden of proof on that issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving the causal connection between his compensable injury and the left femoral neck fracture. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the hearing officer's extent-of-injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer also did not err in determining that the claimant did not have disability as a result of his _____, compensable injury. The record reflects that the femoral neck fracture and the treatment for that injury caused the claimant's inability to obtain and retain employment for the period of disability at issue. Thus, given our affirmance of the determination that the compensable injury does not include the femoral neck fracture, we likewise affirm the determination that the claimant did not demonstrate that he had disability within the meaning of the 1989 Act due to his compensable injury.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge