

APPEAL NO. 041126
FILED JULY 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 April 20, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, that the compensable injury extends to and includes the diagnosed 4 mm disc bulge at L4-5 and 2 mm disc bulge at L5-S1, and that the claimant had disability from August 18, 2003, continuing through the CCH.

The appellant (carrier) appeals the disputed issues essentially on a sufficiency of the evidence basis, citing evidence that supports its position and attacking the claimant's credibility ("lied numerous times"). The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed making gun safes. The claimant testified that he injured his low back picking up certain metal parts. There was extensive testimony regarding the process and apparently the carrier brought certain of the metal parts to the CCH for demonstration purposes. In addition there was a CD Rom, which depicts another worker doing the same or a similar job as the claimant was doing. All the doctors, including the carrier's required medical examination doctor seem to agree that the claimant could have sustained at least a low back strain/sprain. This case turns largely on the credibility of the witnesses. The hearing officer explained why she did not find the video (CD Rom) persuasive.

We have consistently held that the hearing officer is the sole judge of the weight and credibility of the evidence and that resolution of questions of fact are the province of the fact finder. As the fact finder, the hearing officer is charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge