

APPEAL NO. 041294
FILED JULY 23, 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 April 28, 2004. The hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to include a rotator cuff tear of the left shoulder, bursitis, and tendonitis. The appellant (carrier) appealed, arguing that the hearing officer's extent-of-injury determination is against the great weight and preponderance of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

The issue in the case before us was one of extent of injury. The claimant had the burden to prove that the compensable injury to his left shoulder extends to include his rotator cuff tear of the left shoulder, bursitis, and tendonitis. There is conflicting evidence in this case. 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). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's extent-of-injury determination is supported by sufficient evidence and is not 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 that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing's officer decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE 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.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge