

APPEAL NO. 041397
FILED JULY 27, 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 May 26, 2004. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) injury sustained on _____, does not extend to and include a central disc protrusion at L4-5 and L5-S1 with an annular tear at L4-5 and moderate central spinal canal stenosis of the lumbar spine; that as a result of the Decision and Order of the January 26, 2004, CCH, the Texas Workers' Compensation Commission (Commission) does not have jurisdiction to determine disability from December 19, 2002, through January 26, 2004; and that the claimant does not have disability from January 27, 2004, through the date of the May 26, 2004, CCH. The claimant appealed, disputing the extent-of-injury determination and the disability determination. The determination that the Commission does not have jurisdiction to determine disability from December 19, 2002, through January 26, 2004, was not appealed and has become final pursuant to Section 410.169. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that on _____, the claimant sustained a compensable injury. Whether the compensable injury extended to include a central disc protrusion at L4-5 and L5-S1 with an annular tear at L4-5 and moderate central spinal canal stenosis of the lumbar spine, and whether the claimant had disability as defined in Section 401.011(16) from January 27, 2004, through the date of the CCH as a result of the compensable injury presented fact questions for the hearing officer to resolve from the conflicting evidence presented at the CCH. The hearing officer noted that the claimant failed to meet his burden of proof and that the evidence was insufficient to establish the MRI findings are causally related to the injury of _____. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the extent and disability issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS STREET, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701-2554.**

Margaret L. Turner
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge