

APPEAL NO. 041520  
FILED AUGUST 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 June 3, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, does not extend to the lumbar area.

The claimant appealed on sufficiency on the evidence grounds citing his treating doctor's report. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_. It is undisputed that on that date the claimant sustained a crush injury which resulted in the partial amputation of his right middle finger. The claimant asserts that this injury caused him to jump, or step, back hitting a metal table or rack. The claimant's initial medical reports make no mention of back complaints. The first mention of back pain is in a report dated August 20, 2003, when the claimant saw a chiropractor. The carrier's required medical examination (RME) doctor agrees that the claimant could have sustained a contusion "[a]ccording to the history given by the patient."

The testimony and medical evidence were in conflict in regard to the disputed issue and the evidence was sufficient to support the determination of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The hearing officer is not bound by medical evidence which is dependent on the history given by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACE AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN  
6600 CAMPUS CIRCLE DRIVE EAST SUITE 300  
IRVING, TEXAS 75063.**

---

Thomas A. Knapp  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Chris Cowan  
Appeals Judge