

APPEAL NO. 041680
FILED AUGUST 26, 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 May 4, 2004. The hearing officer resolved the disputed issue by determining that the appellant's (claimant) _____, compensable injury includes a herniated disc at L4-5, but does not include a herniated disc at L5-S1; that the claimant had disability from March 7 through April 9, 2002, and from April 16, 2003, through the date of the hearing; and that the claimant did not have good cause for failing to submit to the designated doctor's examination on July 10, 2002, and, consequently, the claimant is not entitled to temporary income benefits from July 10, 2002, through June 17, 2003. The claimant appeals the adverse extent-of-injury determination. Respondent 1 (carrier) urges affirmance of the hearing officer's decision. The appeal file does not contain a response from respondent 2 (subclaimant). The determination that the compensable injury includes a herniated disc at L4-5, as well as the disability and good cause determinations, have not been appealed and have become final pursuant to Section 410.169.

DECISION

Affirmed.

Whether the claimant's compensable injury included a herniated disc at L5-S1 involved a factual question for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). Nothing in our review of the record indicates that the hearing officer's decision that the claimant's compensable injury does not include a herniated disc at L5-S1 is 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY 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.**

Chris Cowan
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge