

APPEAL NO. 041696  
FILED AUGUST 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 July 5, 2004. With respect to the single issue before her, the hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, does not extend to include an injury to the right shoulder. In her appeal, the claimant asserts error in that determination. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury does not extend to include an injury to the right shoulder. The claimant had the burden of proof on that issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. 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). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained her burden of proving that she "sustained an acceleration, enhancement or worsening of her pre-existing right shoulder condition as a result of the injury she sustained on \_\_\_\_\_." The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is 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 the hearing officer's extent-of-injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

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

---

Elaine M. Chaney  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Gary L. Kilgore  
Appeals Judge