

APPEAL NO. 041723  
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 June 16, 2004. The hearing officer resolved the disputed issue by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, extends to and includes lumbar degenerative changes, disc desiccation, and a herniated disc at the L5-S1 level. The appellant (carrier) appealed, arguing that the extent-of-injury determination is contrary to the great weight and credibility of the medical evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

It was undisputed that the claimant sustained a compensable injury on \_\_\_\_\_. At issue was whether the compensable injury extended to and included lumbar degenerative changes, disc dessication, and a disc herniation at the L5-S1 spinal level. The claimant had the burden of proof on this issue and it presented a question of fact for the hearing officer.

We have held that an aggravation of a previous condition can be an injury in its own right. Texas Workers' Compensation Commission Appeal No. 91038, decided November 14, 1991. The hearing officer noted that some of the medical records in evidence reference complaints of lumbar pain within days of the date of the compensable injury. The claimant testified that he did not have pain in his back until \_\_\_\_\_.

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). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Although conflicting evidence was presented on the disputed issue, nothing in our review of the record indicates that the hearing officer's decision 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).

We affirm the decision and order of the hearing officer.

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

**CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge