

APPEAL NO. 042409
FILED NOVEMBER 2, 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 August 18, 2004. The hearing officer decided that the compensable injury of _____, does not extend to or include nerve entrapment, cubital tunnel syndrome, or ulnar neuropathy of the right elbow. The appellant (claimant) has appealed on evidentiary grounds. The respondent (self-insured) has responded, urging that the claimant's appeal was insufficient, or in the alternative, that the decision is sufficiently supported by the evidence.

DECISION

Affirmed.

Initially, we consider the self-insured's challenge to the sufficiency of the claimant's appeal. A fair reading of the document submitted by the claimant demonstrates that she is expressing disagreement with the hearing officer's decision. Thus, we cannot agree that the appeal is insufficient to invoke our jurisdiction and will treat it as a challenge to the sufficiency of the evidence to support the hearing officer's injury and disability determinations. See Texas Workers' Compensation Commission Appeal No. 92292, decided August 18, 1992.

The hearing officer did not err in her extent-of-injury determination. The claimant had the burden of proof on this 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 was not persuaded that the claimant sustained her burden of proving that the compensable injury included nerve entrapment, cubital tunnel syndrome, and ulnar neuropathy of the right elbow. The hearing officer was acting within her province as the finder of fact 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 that determination on appeal. 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 **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

(NAME)
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Veronica L. Ruberto
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge