

APPEAL NO. 991227

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 17, 1999. She determined that the appellant (claimant) did not sustain a compensable left knee injury and that he did not have disability. Claimant appeals these determinations on sufficiency grounds. Respondent (carrier) responds that the Appeals Panel should affirm the hearing officer's decision.

DECISION

We affirm.

Claimant first contends the hearing officer erred in determining that he did not sustain a compensable knee injury at work on _____. The applicable law and our appellate standard of review are stated in Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ); Section 401.011(26); Texas Workers' Compensation Commission Appeal No. 92083, decided April 16, 1992; Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); and Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

Claimant testified that he sustained a left knee injury on _____, while working as a journeyman electrician. Claimant said he stepped in mud and felt a pop in his knee. Claimant said he did not think he had injured himself, but that his knee started to hurt and he worked through the pain. Claimant said he informed employer of the injury on December 29, 1998, the same day that he went to (medical center) for medical care. Claimant said he had a prior leg injury in 1992 but that it was to a different area of his knee and leg. Mr. M, employer's foreman, stated that claimant told him about his knee pain but said that an "old knee injury" was bothering him. Mr. MA, employer's superintendent, stated that claimant told him that his knee hurt but that it was something he did "a while back" and that he did not hurt it at work. Claimant denied that he told employer that his pain was due to a prior injury. Claimant testified that he thought the incident of stepping in the mud was the most likely cause of his knee injury. In a February 1, 1999, report, Dr. P stated under "impression," "left knee internal derangement syndrome," "probable medial meniscal tear," and "post traumatic arthritis of the left knee."

The hearing officer was the judge of the credibility of the witnesses and medical evidence. As the fact finder, she considered the issue of whether claimant sustained a knee injury at work on _____, and resolved this issue against claimant. We will not substitute our judgment for hers in that regard because her determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra. Given our standard of review we will not overturn the hearing officer's decision. *Id.*

Claimant contends the hearing officer erred in determining that he did not have disability. Disability means the "inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Section 401.011(16). Because there was no compensable injury, there can be no disability.

We affirm the hearing officer's decision and order.

Judy Stephens
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Tommy W. Lueders
Appeals Judge