

APPEAL NO. 001050

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 27, 2000. The hearing officer determined that the injury sustained on _____, extends to include an injury to the right knee with a diagnosis of chondromalacia, internal derangement, and contusion. The appellant (carrier) appeals this determination on sufficiency grounds. The appeals file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury to her left knee on _____. The claimant testified that on _____, while she was being trained how to protect herself in the event a client became unmanageable, she fell on both knees. The claimant sought emergency medical treatment on August 7, 1998, and was diagnosed with a left leg strain and left knee contusion. The medical records indicate that the claimant said she "kind of hit both knees." The claimant testified that she had more severe pain in her left knee than in her right knee.

The claimant began to receive medical treatment from Dr. U, on August 10, 1998. Although Dr. U's records reflect only complaints of left knee pain and treatment to the left knee, the claimant testified that she told him that she had fallen on both knees and she received treatment for both knees. Dr. U's records of August 20, 1998, indicate that the claimant had complaints of pain in both knees and an exercise program and cold packs were recommended for both knees. Dr. U certified that the claimant reached maximum medical improvement on October 26, 1998, with a 2% impairment rating for her left knee injury. The claimant returned to work in October 1998.

The claimant testified that her right knee pain continued and intensified in April 1999. The claimant returned to Dr. U on April 13, 1999. Dr. U diagnosed right knee chondromalacia of patella and internal derangement. Dr. U's records state that the claimant developed right knee pain two days ago and the physical therapy records of May 5, 1999, indicate that the claimant had an onset of right knee pain three weeks ago. The claimant testified that she gave a history of onset based on the date that she began to have more problems with popping, walking on stairs, and sitting. Dr. U opines that the claimant injured both knees on _____.

The claimant had the burden to prove the extent of her compensable injury. 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 the evidence. The hearing officer resolved conflicting evidence and concluded that the claimant sustained an injury to her right knee on _____. The hearing officer found the mechanism of injury consistent with an injury to the right knee and supported by

the medical records. When reviewing a hearing officer's decision for factual sufficiency of the evidence, we will reverse such decision only if it is so contrary to 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); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust.

The decision and order of the hearing officer are affirmed.

Dorian E. Ramirez
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Philip F. O'Neill
Appeals Judge