

APPEAL NO. 001057

On April 25, 2000, a contested case hearing (CCH) was held. The CCH was held under the provisions of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* The hearing officer resolved the disputed issues by deciding that appellant's (claimant) compensable injury of _____, did not include an injury to his low back. Claimant requests that the hearing officer's decision be reversed and that a decision be rendered in his favor. Respondent (carrier) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The parties stipulated that claimant sustained a compensable injury on _____. Claimant testified that on _____, his forklift was struck by another forklift and he injured his left knee and lower back. In a CCH held in November 1999 on the issue of disability, claimant testified that he injured his left knee in the forklift accident of _____ but did not mention anything about a back injury. Hospital records of May 21 and June 8, 1999, note complaints of left knee pain but do not mention complaints of back pain. Claimant began treating with Dr. E, on June 9, 1999, and Dr. E wrote in February 2000 that claimant had complaints of lower back and left knee pain when he initially saw claimant and that examination revealed lumbar spasms and decreased lumbar motion. Dr. E's chart notes of July 1999 note complaints of lower back pain. Dr. E referred claimant to Dr. R who examined claimant in September 1999 and wrote that claimant reported left knee pain. Claimant began seeing Dr. F, in November 1999 and Dr. F wrote in February 2000 that claimant was diagnosed with low back and left knee injuries. Dr. M examined claimant at carrier's request in October 1999 and he wrote that claimant sustained a contusion of the left knee in the _____ accident. Claimant has been examined by other doctors.

Claimant had the burden to prove the extent of his compensable injury. The hearing officer found that on _____, while working for employer, claimant's forklift was struck by a coworker's forklift, causing injury to claimant left knee, but not to his low back. The hearing officer concluded that the _____, compensable injury did not include claimant's low back. There is conflicting evidence in this case. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts in the evidence. 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 hearing officer's decision and order are affirmed.

Robert W. Potts
Appeals Judge

CONCUR:

Alan C. Ernst
Appeals Judge

Tommy W. Lueders
Appeals Judge