

APPEAL NO. 001261

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 5, 2000. With respect to the single issue before him, the hearing officer determined that the respondent (claimant) sustained a compensable left knee injury on _____. In its appeal, the appellant (carrier) argues that the hearing officer's injury determination is against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

The claimant testified that on _____, he was working as an equipment operator for an electric utility company. He stated that the plant was in the middle of a startup and there were problems with some of the equipment. He testified that he had gone up two steps, which were of uneven height, and taken a sharp turn to the left followed by a sharp turn to the right, when his left knee "gave out." The claimant stated that his left knee "twisted and popped" as he turned to the right and he fell to the ground on the metal catwalk where he was walking. An MRI of the claimant's left knee taken on March 1, 2000, revealed an "abnormal signal in posterior horn of the medial meniscus consistent with meniscus tear."

The carrier contends that the hearing officer's determination that the claimant sustained a compensable injury is against the great weight of the evidence because the evidence "failed to establish a nexus" between the injury and his employment. The claimant in a workers' compensation case has the burden to prove by a preponderance of the evidence that he sustained a compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what weight to give to the evidence. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). To this end, the hearing officer as fact finder may believe all, part, or none of the testimony of any witness. When reviewing a hearing officer's decision we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

There was conflicting evidence on the issue of whether the claimant satisfied his burden of proving that he sustained a compensable injury. It was for the hearing officer to resolve the conflicts and inconsistencies. He did so in favor of a determination that the claimant sustained a compensable injury. The hearing officer was acting within his

province as the fact finder in so determining. The factors the carrier emphasizes on appeal are the same factors it emphasized at the hearing, and the significance, or lack thereof, of those factors was a matter left to the discretion of the hearing officer. Our review of the record does not demonstrate that the hearing officer's determination that the claimant sustained a compensable injury is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool; Cain.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Dorian E. Ramirez
Appeals Judge

Judy L. Stephens
Appeals Judge