

APPEAL NO. 001606

On June 13, 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 the appellant's (claimant) compensable injury did not extend to or affect the claimant's right knee and that the claimant had disability from November 30, 1999, to January 7, 2000, but did not have disability from March 2, 2000, to June 13, 2000. The claimant requests that the hearing officer's decision be reversed and that a decision be rendered in her favor. The respondent (self-insured) requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant began working for the self-insured's hospital as a licensed vocational nurse in August 1999. The claimant testified that on _____, a 200-pound patient fell out of bed and that she and the charge nurse lifted the patient from the floor and put him back into bed. The claimant said that she twisted when she lifted the patient and felt pain in her lower back that went down her right leg and had pain in the back of her right knee. The charge nurse wrote that the claimant reported her back pain to her shortly after the incident. The claimant said that she went to the emergency room (ER) a few hours after the incident with complaints of pain in her lower back, right leg, and right knee. The ER records were not in evidence. The claimant said that the ER doctor took her off work and that the self-insured terminated her from employment. A physician's assistant saw the claimant on December 2, 1999, for complaints of low back pain and a physical therapist saw the claimant on December 7, 1999, for complaints of low back pain and pain radiating down her right leg. The self-insured accepted liability for the claimant's low back injury.

The claimant said that she has had arthritis in both knees for about four or five years. The claimant began seeing Dr. H on December 17, 1999, and Dr. H wrote that the claimant complained of low back pain that radiates down her right leg that began on _____, and of bilateral knee pain that started about one week after her "work injury fall" at self-insured. The claimant said that she did not tell Dr. H that she fell. Dr. H also wrote that the claimant had seen Dr. S about one month prior to her work injury for bilateral knee pain. The claimant said that she does not recall having seen Dr. S for knee pain and that she does not know where Dr. H got that information. Dr. H noted that the claimant's lumbar MRI of December 15, 1999, showed mild, degenerative changes at L4-5. The claimant noted on a pain drawing on December 17, 1999, that she had lower back pain, numbness in her right leg, and pain behind her right knee. Dr. H diagnosed the claimant as having right sacroiliitis and a sprain of the right sacroiliac ligaments. Dr. H gave the claimant injections in her right sacroiliac joint.

Dr. H released the claimant to return to work without restrictions on January 7, 2000. The claimant said that she obtained a job as a health and safety specialist for another employer on January 10, 2000, and worked at that job until March 1, 2000. She said that that job mainly involved sitting while reviewing records and that she had to drive about 400 miles a week to and from work. The claimant saw Dr. H on February 10 and March 2, 2000, for complaints of increased pain. The claimant said that toward the end of February her right knee began to swell. On March 2, 2000, Dr. H recommended that the claimant be off work until he releases her to return to work and referred claimant for an EMG. On March 6, 2000, Dr. H made an assessment of right sacroiliitis, right lower extremity radiculitis, and right knee pain, noting that the claimant's right knee was tender and swollen. Dr. H referred the claimant to Dr. D for her right knee complaints. Dr. H noted on March 6, 2000, that the claimant told him that she had had right knee pain since her work injury of _____.

Dr. D wrote on March 6, 2000, that the claimant was complaining of bilateral knee pain, worse on the right, and that the claimant told him that she has had pain in both knees in the past with severe grinding and popping but that her right knee is definitely different than what it was in the past. Dr. D also wrote that the claimant could not recall any specific injury to her knee but said that she injured her back on _____, when she attempted to lift a patient. The claimant said that she told Dr. D that she injured her back and right knee when she lifted the patient on November 29. Dr. D diagnosed the claimant as having bilateral patellofemoral syndrome and a possible meniscal tear of the right knee. He recommended a right knee MRI prior to proceeding with arthroscopic surgery. The claimant said that the self-insured has not authorized the knee MRI.

Dr. Sc reported that EMG and nerve conduction studies done on March 13, 2000, showed no electrodiagnostic abnormalities of the lower extremities or of the lumbosacral paraspinals.

The claimant began seeing Dr. B on March 30, 2000, and Dr. B gave an impression of lumbar disc displacement, lumbar sciatica, lumbar sprain/strain, and peripheral joints knee sprain/strain and recommended conservative treatment.

The claimant said that she has not worked since Dr. H took her off work on March 2, 2000; that she is unable to work because of her back pain; that her right knee pain is not as bad as her back pain; that she needs to have her right knee fixed; that she is being treated for her back pain by Dr. B; and that Dr. B has not told her when he anticipates that she will be able to return to work.

The claimant had the burden to prove the extent of her compensable injury and that she has had disability. It was undisputed that the claimant sustained a compensable lower back injury on _____, and that she had disability from November 30, 1999, to January 7, 2000. The claimant did not claim that she had disability from January 7, 2000, to March 1, 2000, while working as a health and safety specialist for another employer. The claimant claimed that she has had disability from March 2, 2000, through the date of

the CCH. 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). The claimant also contends that she injured her right knee while lifting the patient on _____.

The hearing officer found that the claimant was receiving medical treatment for bilateral knee pain one month prior to her injury; that the claimant’s compensable lower back injury did not cause or aggravate her bilateral knee problems; that the claimant did not injure her right knee on _____, while working for the employer; that between January 8 and March 1, 2000, the claimant received little documented medical treatment for her back injury; and that the claimant’s inability to work from March 2, 2000, through June 13, 2000, is not the result of a compensable injury on _____. The hearing officer concluded that the claimant’s compensable injury does not extend to or affect the claimant’s right knee and that the claimant did not have disability from March 2, 2000, through June 13, 2000.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 401.011(16). As the trier of fact, the hearing officer resolves conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer’s decision on the issues of extent of injury and disability are supported by sufficient evidence and that they are 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

Thomas A. Knapp
Appeals Judge