

APPEAL NO. 001758

On June 29, 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 respondent (claimant) sustained a compensable injury to her left knee on _____, and that the claimant had had disability from January 24, 2000, through the date of the CCH. The appellant (carrier) requests that the hearing officer's decision be reversed and that a decision be rendered in its favor. The claimant requests that the hearing officer's decision be affirmed.

DECISION

Affirmed.

The claimant testified that she was performing her normal job duties at work on _____, putting coat parts into bags and then putting the bags into a cart that was behind her. She said that when she turned rapidly to put the bags into the cart, she twisted and felt pain in her knee. The claimant's shift manager testified that the claimant reported on January 12 that she felt knee pain when putting the bags in the cart, but that the claimant did not mention that she had twisted her knee.

Dr. O reported that he saw the claimant on _____; that the claimant told him that she was at work placing bags of material in a cart when she felt left knee pain; and that the claimant could not recall any trauma. Dr. O diagnosed an acute left knee strain. Dr. C reported that an MRI of the claimant's left knee done on February 2, 2000, showed a tear of the lateral meniscus and Dr. C recommended surgery. Dr. C wrote that the claimant had twisted her knee while working. Dr. O reported in February 2000 that the claimant has a work-related injury. Dr. O reported in the latter part of January 2000 that the claimant is to be off work, and Dr. C reported in February 2000 that the claimant is to be off work. The claimant said that her doctors have told her that she is not to work until she has left knee surgery for the torn meniscus.

The carrier's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21) disputed compensability, stating that the carrier's position is that the claimant has an ordinary disease of life.

The claimant had the burden to prove that she was injured in the course and scope of her employment and that she had disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer found that while performing her job duties on _____, the claimant turned rapidly to place a bag into a cart behind her and twisted her left knee and felt immediate pain; that the medical reports supported a causal connection between the claimant's torn lateral meniscus of her left knee and her employment; that on _____, the claimant sustained a meniscus tear to her left knee while in the course and scope of her employment; and that the claimant's

inability to work from January 24, 2000, through the date of the CCH was due to her left knee injury. The hearing officer concluded that the claimant sustained a compensable injury to her left knee on _____, and that the claimant has had disability from January 24, 2000, through the date of the CCH.

The carrier contends that the hearing officer erred in finding that the claimant sustained a compensable injury, citing several Appeals Panel decisions. The carrier also contends that the hearing officer erred in finding disability. We do not find the Appeals Panel decisions cited by the carrier to be dispositive of the case before us, because in the instant case the hearing officer's findings that the claimant twisted her knee while performing her job duty of placing bags in the cart and that the claimant sustained a meniscus tear to her knee while in the course and scope of her employment are supported by sufficient evidence and are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. See Hanover Insurance Company v. Johnson, 397 S.W.2d 904 (Tex. Civ. App.-Waco 1965, writ ref'd n.r.e.) (where employee, while in stooped position painting water tank on employer's premises, sustained back injury when he turned in response to person who spoke to him while walking behind him; there was causal connection between injury and employee's employment and the injury was compensable). See also Texas Workers' Compensation Commission Appeal No. 990252, decided March 25, 1999. We conclude that the hearing officer's decision that the claimant sustained a compensable injury on _____, and that she has had disability from January 24, 2000, through the date of the CCH is supported by sufficient evidence and 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:

Tommy W. Lueders
Appeals Judge

Judy L. Stephens
Appeals Judge