APPEAL NO. 002494

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 September 25, 2000. The hearing officer determined that the appellant's (claimant) injury sustained on _____, did not extend to or include an injury to the cervical or thoracic spine. The claimant appealed the adverse determination on the grounds of sufficiency of the evidence. The respondent (self-insured) filed a response contending that the evidence was sufficient to support the determination of the hearing officer and should be affirmed.

DECISION

Affirmed.

The claimant testified that she worked for the self-insured's Parks and Recreational Department as a general laborer on _____, and while picking up a bag of trash to place it into a truck, she hit her left knee on the hitch of the truck and almost fell to the ground. She contended that pain in her left knee, lower back, middle back, and neck immediately made her nauseous. The claimant reported her injury to the employer and she was transported to the local hospital emergency room where, after x-rays of her knee and lumbar spine were taken, she was treated and released. The x-rays indicated that the claimant had not fractured her knee and that she had mild spondylosis in the lumbar spine. The hospital records do not reflect complaints of thoracic or cervical pain. The claimant testified that she subsequently sought medical treatment with Dr. H who she asserted diagnosed her with internal derangement of the left knee and a cervical, thoracic, and lumbar sprain. She denied any prior problems with her cervical or thoracic spine prior to _____.

On cross-examination the claimant stated that she still had headaches and continued to have pain in her neck and had problems sitting without any decrease in pain from the date of injury to the date of the CCH. The claimant stated that she did not seek medical treatment for six months after the date of injury but obtained pain medication from Mexico because she was not sure that she would be covered for workers' compensation benefits. The claimant admitted that she returned to work the day after the injury and continued to work at her regular duties except for heavy lifting until her seasonal employment ended about five months later in October 1997. The claimant stated that she had to quit her second job as a nurse's assistant in June 1997 because she could no longer do the job. She apparently sustained another injury in October 1998 to her back and was later examined by Dr. C, and Dr. S, the designated doctor for the 1997 injury.

Ms. C testified that she is the claims adjuster for the self-insured and that she had a conversation with the claimant which she recorded on March 10, 1998. Ms. C stated that the claimant contended that she only injured her left knee and lower back, and that at the time of the interview the claimant did not claim to have injured her thoracic or cervical

spine. The record of the interview was not offered by the parties. Ms. C testified that she did not begin receiving medical reports for mid-back or neck complaints until March 1998.

Medical records from Dr. H dated February 3, 1998, reflect that the claimant presented for complaints of back and left knee pain from an injury sustained on _____. His report from this date indicates that the claimant provided a history of continuing to work until October 31, 1997, while experiencing low back pain progressing to her low thoracic area and contains diagnostic codes for a cervical, thoracic, and lumbar sprain and internal derangement of the left knee.

The claimant apparently did not seek medical treatment again until June 25, 1998, with Dr. A, an associate of Dr. H, for complaints of lower back and left knee pain. He also diagnosed the claimant with a cervical, thoracic, and lumbar sprain and internal knee derangement. In November 1998, Dr. A added a diagnosis of carpal tunnel syndrome. He noted that the claimant had injured her right ankle on October 16, 1998, and was being treated for this injury by Dr. B. X-rays of the cervical spine were taken on October 1, 1999, which indicated osteophyte formations at C5-6 and C6-7. The claimant was diagnosed with degenerative disc disease. The claimant continued to treat with Dr. A through August 2000.

Dr. C examined the claimant on June 29, 1999. His report does not contain a medical history that included an injury to her thoracic or cervical spine until the claimant was evaluated by Dr. H on February 3, 1998.

On July 29, 1999, Dr. S examined the claimant as the designated doctor. The claimant provided a history of hitting her left knee causing her to twist and experience lower back pain. Dr. S recites that the claimant told him that she quit her second job about two to three months later because she was having difficulty managing two jobs. Dr. S's report does not contain any complaints or history from the claimant of thoracic or cervical pain, or headaches. Dr. S concluded that the claimant had sustained a lumbar and left knee strain on _____.

The hearing officer found that the claimant did not injure her thoracic or cervical spine while working on _____. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). While a claimant's testimony alone may be sufficient to prove an injury, the testimony of a claimant is not conclusive but only raises a factual issue for the trier of fact. Texas Workers' Compensation Commission Appeal No. 91065, decided December 16, 1991. The trier of fact may believe all, part, or none of any witness's testimony. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

In a case such as the one before us where both parties presented evidence on the disputed issues, the hearing officer must look at all of the relevant evidence to make factual determinations and the Appeals Panel must consider all of the relevant evidence to determine whether the factual determinations of the hearing officer are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Texas Workers' Compensation Commission Appeal No. 941291, decided November 8, 1994. An appeals-level body is not a fact finder, and it does not normally pass upon the credibility of witnesses or substitute its own judgement for that of the trier of fact even if the evidence could support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied).

Only were we to conclude, which we do not in this case, that the hearing officer's determinations were so against the great weight and preponderance of the evidence as to be manifestly unjust would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 224 S.W.2d 660 (1951); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgement for his. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994.

We affirm the hearing officer's decision and order.

_____
Kathleen C. Decker
Appeals Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Robert W. Potts
Appeals Judge