APPEAL NO. 002673

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 October 20, 2000. With regard to the issues before him, the hearing officer determined that the appellant (claimant) had not sustained a compensable injury to either his left knee or his right knee on _____ (all dates are 2000 unless otherwise noted), and that the claimant did not have disability.

The claimant appealed, emphasizing his testimony and the reports of his treating doctor, Dr. B. The claimant emphasizes that he was only seen by the VA for his left knee "a total of seven times." The claimant requests that we reverse the hearing officer's decision and render a decision in his favor. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a truck driver and testified that on _____ he injured his knees moving the tandem of his trailer. It is undisputed that the claimant has had left knee problems since 1972 when he injured the knee playing basketball while in the military. The claimant has had several surgeries on his left knee and had received treatment from the VA for his knee. The claimant also had work-related injuries to his left knee in 1986 and in _____. With reference to the _____ injury, an MRI was performed and in a report dated July 9, 1998, Dr. B (who was also the claimant's treating doctor for the 1998 injury) wrote:

> We went over the MRI. I told [the claimant] his knee is no good. He may need arthroscopy in the future . . . . He may need a total knee.

Although there was some dispute about the date of injury, the first time the claimant saw Dr. B after _____ was on February 22. Dr. B did not reference any kind of new injury in a report of that date and merely notes that the claimant's knee "really interferes with the patient's work and his lifestyle." The claimant was also seen by the VA numerous times before and after _____ for knee complaints. The hearing officer, in the Statement of the Evidence, comments that the "claimant did not appear credible in his testimony."

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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). The trier of fact

may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ).

As we are affirming the hearing officer's decision that the claimant's left knee condition is not compensable, any "altered gait" injury resulting from the noncompensable left knee condition would also be noncompensable.

Upon review of the record submitted, we find no reversible error. We will not disturb the hearing officer's determinations unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We do not so find and, consequently, the decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Kenneth A. Huchton
Appeals Judge

Judy L. Stephens
Appeals Judge