

APPEAL NO. 002926

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 November 28, 2000. The hearing officer determined that the respondent's (claimant) compensable right knee injury extends to the low back.

The appellant (carrier) appealed on a sufficiency-of-the-evidence basis and emphasizes evidence in its favor. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that she was employed by the employer hotel chain and that on _____ (all dates are 2000 unless otherwise noted), she slipped and fell in some water in the restroom. The carrier has accepted liability for a right knee injury. The claimant testified that five or six days later, her back began hurting; that she saw her family doctor on July 26; that her family doctor had the claimant tested for kidney stones, which testing was negative; and that the claimant subsequently sought treatment from a chiropractor, who diagnosed a low back strain. The carrier attacked the claimant's credibility, pointing to a prior 1988 work-related back injury; the claimant's two felony convictions in 1994 and 1996; and that the claimant's family doctor had noted "Ø LBP."

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge