

APPEAL NO. 010186

Following a contested case hearing held on January 4, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the respondent's (claimant) _____, injury extended to the left knee. The appellant (carrier) appeals, disputing factual findings and a conclusion of law and arguing either that there is no evidence to support the findings or that the findings are against the great weight and preponderance of the evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The carrier appeals the following findings of fact and conclusions of law:

FINDINGS OF FACT

3. Claimant complained of pain to both knees to the doctors. However Claimant's primary complaints of pain following the work injury were to the ribs and chest area and the right knee.
4. [Dr. H] and [Dr. D] link the left knee to the compensable injury by noting hyper-extension. A peer review doctor, [Dr. K], noted that the Claimant probably had a left knee strain from the hyper-extension.

* * * *

6. Claimant had a prior left knee injury which included surgery. Claimant had recovered from that injury.
7. Claimant sustained an injury to the left knee in the course and scope of his employment on _____.

CONCLUSIONS OF LAW

3. The compensable _____ injury extends to the left knee.

There was conflicting evidence concerning each of these findings. 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 of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709

S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the factual findings of the hearing officer.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge