

APPEAL NO. 010277

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 et seq. (1989 Act). On January 16, 2001, a hearing was held. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, in the form of a torn medial meniscus in her left knee; that the claimant sustained disability as a result of the compensable injury of _____, from September 27, 2000, through October 17, 2000, which was in addition to the previous ____ days of disability; and that the injury did not arise out of the claimant's voluntary participation in a recreational or social activity under Section 406.032(1)(D). The appellant (self-insured) appealed and the claimant responded.

DECISION

The hearing officer's decision and order are affirmed.

The disputed issues involved questions of fact for the hearing officer to determine as the trier of fact from the conflicting evidence presented at the hearing. The hearing officer found that the claimant sustained a compensable injury in the form of a torn medial meniscus to her left knee on _____; that at the time of the injury the claimant was participating in a school pep rally in the school gymnasium during the regular school day for which time she was paid; that there was a reasonable expectancy on the part of the self-insured for her to perform such an activity; that Section 406.032(1)(D) does not apply because the injury did not arise out of voluntary participation in an off-duty recreational activity; that the claimant was in fact on duty performing duties as expected; and that the claimant was unable to obtain and retain employment at preinjury wages as a result of the compensable injury of _____, from September 27, 2000, through October 17, 2000, in addition to the ____ days for which she had previously received temporary income benefits. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The appealed findings of fact, conclusions of law, and decision are supported by sufficient evidence and are not so against the great weight and preponderance 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:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge