

APPEAL NO. 010306

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 January 23, 2001. With respect to the single issue before him, the hearing officer determined that the claimant's compensable injury of \_\_\_\_\_, does not include an injury to the right knee. In his appeal, the claimant contends that that determination is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not include a right knee injury. The claimant contends that he hurt his knee when he fell on it while walking in work hardening. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. There was conflicting evidence on the issue of whether the claimant injured his right knee in the fall at work hardening. The hearing officer was acting within his province as the fact finder in determining that the claimant did not sustain his burden of proving that the damage in the physical structure of the claimant's right knee, the meniscus tear, was caused by the fall at work hardening. As the fact finder, the hearing officer was free to discount the claimant's causation evidence and that is what he did here. Our review of the record does not demonstrate that the hearing officer's determination that the claimant's compensable injury does not include the right knee is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge