

APPEAL NO. 010877

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 30, 2000. The Appeals Panel, in Texas Workers' Compensation Commission Appeal No. 002961, decided February 1, 2001, remanded the case to the hearing officer for reconstruction of the record. The hearing officer conducted a hearing on remand April 9, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury _____, and had disability therefrom for the period of May 28, 2000, through September 9, 2000. The appellant (self-insured) appeals and seeks a reversal on sufficiency grounds. The respondent (claimant) urges affirmance of the decision and order in all respects.

DECISION

Affirmed.

The hearing officer did not err in concluding that the claimant sustained a compensable injury _____. The claimant testified that on that date, she slipped while getting down from cleaning a case over a hot tray line in the cafeteria and hit her knee on the edge of the "line," causing it to swell and bruise. She went to see a doctor the next day and was released to light duty. The self-insured presented medical evidence, including the claimant's x-ray showing no irregularity, to the effect that the fall caused simply pain, not an injury. The claimant's magnetic resonance imaging report, taken about seven months after her date of injury, showed that her left knee had some swelling.

The hearing officer did not err in determining that the claimant had disability from the period of May 28, 2000, to September 9, 2000. The claimant testified that one of the doctors took her off work May 25, 2000, and that she became employed again beginning September 10, 2000.

The parties presented evidence which legitimately conflicts on the disputed issues. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); 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.). 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). This tribunal will not disturb the challenged 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. 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). We cannot agree with the self-insured that the medical evidence is

merely speculative, but, in any case, this is an injury that could be proved by the claimant's testimony alone. See Morgan v. Compugraphic Corp., 675 S.W.2d 729, 733 (Tex. 1984).

For these reasons, we affirm the decision and order of the hearing officer.

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge