

APPEAL NO. 011023
FILED JUNE 26, 2001

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 May 1, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) sustained a compensable injury to her right knee on _____, and that the claimant has had no disability from the injury of _____. The claimant appealed the hearing officer's decision on the disability issue and the respondent (carrier) responded, requesting affirmance. There is no appeal of the hearing officer's decision that the claimant sustained a compensable injury on _____.

DECISION

The hearing officer's decision on the disability issue is reversed and a new decision is rendered that the claimant had disability beginning on July 5, 2000, and continuing through July 11, 2000.

Section 401.011(16) defines disability as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant testified that on _____, she bumped her right knee on a plastic mail cart at work. The hearing officer determined that the claimant sustained a compensable contusion and strain to her right knee. There is conflicting evidence with regard to the disability issue. The doctor the claimant saw on July 5, 2000, released the claimant to return to work with restrictions on that day and noted that the restrictions were expected to last until at least July 12, 2000, at which time the claimant was expected to be ready to return to work without restrictions. The claimant said that she did not return to work because her treating doctor took her off work until October 9, 2000. The claimant's treating doctor diagnosed the claimant as having a right knee strain and took the claimant off work and prescribed chiropractic treatments. It is clear from the hearing officer's findings of fact that the hearing officer found that the claimant was unable to perform her clerical worker duties for the employer from July 5, 2000, and continuing through July 11, 2000, but that the claimant was capable of working in a full-duty capacity beginning on July 12, 2000. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's findings on the disability issue 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.

We reverse the hearing officer's decision that the claimant has had no disability and render a decision that the claimant had disability from July 5, 2000, and continuing through

July 11, 2000, but not after July 11, 2000, to the date of the CCH, which new decision is in accordance with the hearing officer's findings of fact.

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge