

APPEAL NO. 011104
FILED AUGUST 6, 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. With respect to the issues before him, the hearing officer determined that the appellant (claimant) sustained a compensable injury to her right knee _____, and had disability thereafter from _____, through January 15, 2001. The claimant appeals and seeks the reversal of the hearing officer's decision with respect to her disability, urging that she had disability from _____, through the time of the CCH, May 1, 2001.¹ The carrier responds that the hearing officer was correct in assessing the claimant's injury as limited in seriousness.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury to her right knee _____. Evidence in the record, including the claimant's testimony and medical records from the employer and from an outside physician, support the hearing officer's decision.

The hearing officer did not err in determining that the claimant had disability from _____, through January 15, 2001. The hearing officer made a finding that the more serious injury discovered in the claimant's knee in March 2001, the internal derangement, was not caused by her compensable injury and that her compensable injury was a relatively minor knee effusion [swollen knee] injury, causing her inability to obtain or retain employment at wages equivalent to her preinjury wage to last only five days. See Section 401.011(16).

The parties presented conflicting evidence 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

¹More precisely, the claimant urges that the Appeals Panel reverse the hearing officer and render that her disability runs through the time, in the future, that her doctor releases her from his care for her knee injury. Neither the hearing officer nor the Appeals Panel can issue an advisory opinion on disability for periods of time after the CCH.

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).

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

Susan M. Kelley
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge