

APPEAL NO. 011402
FILED AUGUST 7, 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 14, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable (left knee) injury on _____, and that the claimant had disability from October 22, 2000, to October 30, 2000, and November 13 and 14, 2000.

The appellant (self-insured) appealed, asserting that there is no objective medical evidence of an injury (as defined in Section 401.011(26)); that pain does not constitute an injury; and that the hearing officer "misstated the incident" giving rise to the claimant's left knee pain. The self-insured also appeals the disability determination on the basis that the claimant did not have a compensable injury. The claimant responds to the points raised by the self-insured.

DECISION

Affirmed.

The claimant was employed as a corrections officer and on the evening in question was performing assigned duties at a desk. The claimant testified that when another officer came to relieve him, he pushed back his chair and as he was standing up he felt his knee pop, felt "severe pain," and "fell back into the chair." The claimant reported his injury and was taken to a hospital emergency room. Diagnostic tests, including x-rays and an MRI, were all normal. The claimant was off work for the periods of disability found by the hearing officer.

The self-insured contends that pain alone is not an injury and that the diagnostic tests had not shown an injury. While the diagnostic tests essentially indicate a normal knee, a physical therapist notes an "unspecified internal derangement of knee." Also, Dr. S, the claimant's treating doctor, notes a "positive medial McMurray's test and medial palpatory pain over the medial meniscus." There is sufficient evidence to support the hearing officer's decision on this issue.

The self-insured also complains that the hearing officer "misstated the incident" by reciting in both the Statement of the Evidence and a factual determination that the claimant "stumbled backward." The claimant actually testified (and, in fact, demonstrated at the CCH) that he pushed his chair back, started to stand up, felt the pain, and "fell back into the chair." We find the self-insured's appeal on this point without merit, and certainly not reversible error.

Conflicting evidence was presented on the disputed issues. 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. The hearing officer's decision is supported by sufficient evidence and is

not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge