

APPEAL NO. 011666
FILED AUGUST 30, 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 was held on May 17, 2001. The hearing officer determined that the respondent's (claimant) compensable injury of _____, extended to a tear of the medial meniscus of the left knee. The appellant (carrier) appeals the determination on sufficiency grounds. The carrier also objects to the inclusion of language in the decision concerning the payment of temporary income benefits (TIBs) because disability was not at issue in this proceeding. The claimant urges affirmance of the hearing officer's injury determination.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury extended to include a tear of the left medial meniscus. The claimant asserted that he injured his left knee on _____, simultaneous with his compensable injury to his left leg. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is 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 (Tex. 1986).

As stated above, the carrier objects to the inclusion of language in the decision concerning the payment of TIBs because disability was not at issue in this proceeding. We have reviewed the complained of language and conclude that its inclusion was not improper.

The decision and order of the hearing officer are affirmed.

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge