

APPEAL NO. 012455
FILED NOVEMBER 27, 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 September 10, 2001. The hearing officer resolved the disputed issues by determining that the appellant's (claimant) _____, compensable right ankle sprain injury does not extend to or include her right knee, and that the claimant has not had disability as a result of her compensable injury from July 29, 2000, to the present. The parties stipulated that the claimant had disability due to her compensable injury from _____, to July 28, 2000. The claimant appealed on sufficiency of the evidence grounds, and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable right ankle sprain injury on _____, and that she had disability as a result of the compensable injury from _____, to July 28, 2000. The claimant, a nurse, sustained her compensable injury when she slipped and fell as she was walking across the parking lot to start her shift at a medical center. The claimant was taken to the employer's emergency room (ER), and the ER records indicate right ankle pain and specifically note that her knees and leg were uninjured. The claimant complained of pain in her right ankle and lower leg between _____, and _____. On _____, while at home, the claimant experienced a pop in her right knee and suffered immediate pain. While the claimant's compensable right ankle sprain has resolved, the problems with her right knee are ongoing.

The claimant had the burden to prove that her current right knee injury is related to her compensable right ankle injury, and that she continues to have disability. There is conflicting medical evidence in this case. The medical opinions supporting a causal relationship between the knee injury and the compensable injury appear to be based on the history provided to the doctors by the claimant. The medical opinions that do not support a causal relationship appear to rely on the initial ER records.

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 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). The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony on how the injury occurred or if the injury is work related, as claimed. See Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by the testimony (or evidence) of a medical witness when the credibility of that testimony (or evidence) is dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v.

Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1996. Upon review of the record submitted, we find no reversible error and will not disturb the hearing officer's determinations since they are not so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS HOSPITAL INSURANCE EXCHANGE** and the name and address of its registered agent for service of process is

**ROBERT DION
6300 LA CALMA SUITE# 550
AUSTIN, TEXAS 78752.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Robert W. Potts
Appeals Judge