

APPEAL NO. 012604
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 October 4, 2001. The hearing officer resolved the sole issue before him by determining that the appellant's (claimant) _____, compensable injury does include the cervical spine but does not include the right knee. On appeal, the claimant asserts that the hearing officer erred in excluding the right knee because the evidence presented is sufficient to prove that his injury includes the right knee. The respondent (carrier) responds, urging affirmance. The determination that the claimant's compensable injury extends to the cervical spine has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The claimant sustained a compensable injury on _____, when he slipped and fell at work. The claimant testified that he struck his right knee on a metal sink, and he fell backwards landing on his lower back and striking his head and neck on the floor. The claimant stated that he had immediate pain to his lower back and knee, and that he developed a headache within moments of the fall. The claimant was sent to the company doctor (clinic) the next day. The claimant testified that he told every doctor that he saw about the pain in his right knee and neck.

The hearing officer did not err in determining that the claimant's compensable injury does not include an injury to the right knee. 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 medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Whether or not an injury extends to a particular member of an injured employee's body is a question of fact for the hearing officer to resolve. As an appellate reviewing tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find that to be so in this case. 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). Despite the claimant's assertion that he complained of right knee pain to every doctor he saw, the claimant's treating doctor testified that the claimant only minimally mentioned the right knee, and no treatment or referrals were made for it. Additionally, the medical records from the clinic, where the claimant treated immediately following the _____, compensable injury, make no mention of a right knee problem. The hearing officer's decision is supported by sufficient evidence and it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge