

APPEAL NO. 013136
FILED JANUARY 24, 2002

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 July 9, 2001. In Texas Workers' Compensation Commission Appeal No. 011845-S, decided September 11, 2001, the Appeals Panel remanded the case for insurance carrier information. The hearing officer recites that the record on remand was opened (for the appellant (carrier) to provide the requested information) on October 22, 2001, and that the record was closed on November 26, 2001, and that neither party was present. By inference, the hearing officer adopted her original decision with the addition of the insurance carrier information and Appeal No. 011845-S, admitted as Hearing Officer Exhibit Nos. 2 and 3.

With respect to the disputed issues, the hearing officer determined:

1. The compensable injury of _____ does extend to and include a left knee meniscus tear, right knee meniscus tear, but it does not extend to nor include disc herniation at L4-5 nor depression.
2. Claimant has had disability resulting from the compensable injury of _____ from October 5, 2000 continuing to the date of [the CCH].

The carrier appeals the hearing officer's determinations, arguing that the hearing officer omitted and did not consider all evidence presented, and that the decision is against the great weight and preponderance of the evidence. The claimant urges affirmance.

DECISION

Affirmed.

The claimant was employed as an airline reservation agent and sustained a compensable injury on _____, when she left a training meeting and was struck by a buffer that was being pushed on its rear wheels by a janitor. The mechanics of the injury were disputed, with the carrier accepting liability for a left leg contusion. The claimant sought treatment for her injuries with an orthopedic surgeon on October 11, 2000. The claimant testified that the doctor elected to treat her most severe symptoms, her left knee injury, first before addressing the other injuries, her right knee and low back. The claimant had left knee arthroscopic surgery on December 13, 2000. In a note dated December 27, 2000, the claimant's treating doctor commented that the claimant had "hurt her lower back at work at the same time that she hurt her left knee." The doctor's notes in January 2001 began commenting on the claimant's right knee complaints and in February 2001 a doctor's note states an MRI "shows probable tear of the posterior horn

of the medial meniscus in the right knee.” A carrier peer review report states that the right knee and low back complaints are unrelated to the compensable injury.

The carrier complains that the hearing officer did not comment on the fact that the claimant's “job itself was light duty” and “the fact that Claimant waited two to three months to even report a left knee meniscus tear” and that the claimant's disc bulge “is an ordinary disease of life.” The carrier also complains that because the claimant had a light-duty job, her lower extremity and back injuries would not prevent her from returning to her preinjury job.

All of the carrier's complaints about the sufficiency of the evidence involve questions of fact which are within the sole province of the hearing officer to resolve. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not 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, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**TIM KELLY
AIG
675 BERING, 3RD FLOOR
HOUSTON, TEXAS 77057.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Edward Vilano
Appeals Judge