

APPEAL NO. 013186
FILED FEBRUARY 25, 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 January 18, 2001, and concluded on June 19, 2001. The hearing officer resolved the disputed issues by determining that (1) the appellant/cross-respondent (claimant) did not sustain a compensable mental trauma injury on _____; (2) the claimed compensable injury did not include an injury to the left knee; (3) the claimant did not have disability due to the claimed injuries; (4) the claimant did not timely notify his employer of the claimed injury and did not have good cause for failing to do so; and (5) the respondent/cross-appellant (carrier) did not timely dispute the compensability of the claimed injury, but there is no consequence of the carrier's failure to timely dispute because there was no injury to dispute. In Texas Workers' Compensation Commission Appeal No. 011735, decided September 5, 2001, the Appeals Panel rendered a decision that the claimant did sustain a compensable mental trauma injury as a matter of law due to the carrier's failure to timely contest the claimed injury; affirmed the hearing officer's determination that the claimed compensable injury does not extend to the knee; reversed the hearing officer's determination that the claimant did not have disability and remanded the case back to the hearing officer to determine whether the compensable mental trauma injury resulted in disability; and remanded the case for purposes of compliance with House Bill 2600, which amended Section 410.164 by the addition of subsection (c).

A CCH on remand was held on October 2, 2001. In the decision and order on remand, the hearing officer states that neither party provided any additional evidence or testimony other than the carrier information necessary to comply with House Bill 2600, which amended Section 410.164. As to the only other issue before him, the hearing officer determined that the claimant did not have disability as a result of the _____, compensable mental trauma injury. The claimant appealed the determination as to disability on sufficiency grounds. The carrier cross-appealed, asserting that the Appeals Panel erred in determining that the claimant sustained a compensable mental trauma injury as a matter of law. There are no responses in the file.

DECISION

The hearing officer's decision and order on remand are affirmed.

We first address the claimant's appeal of the hearing officer's disability determination. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. Whether or not an injured employee has disability as a result of a compensable injury is a question of fact for the hearing officer to resolve. Nothing in our review of the record indicates that the hearing officer's determination as to disability is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier appeals an issue not before the hearing officer on remand. The determination that the claimant sustained a compensable mental trauma injury has become final. Section 410.169.

The hearing officer's decision and order on remand are affirmed.

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

**PAUL HENRY VAN WAGONER
1100 JUPITER ROAD, SUITE 121
PLANO, TEXAS 75074.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge