APPEAL NO. 020068
FILED FEBRUARY 12, 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 November 30, 2001. The hearing officer resolved the issues before him by determining that the appellant's (claimant) _____, compensable injury does not extend to and include an injury to her left knee, and that the respondent (self-insured) did not waive the right to dispute compensability because the language as stated by the self-insured in block 43 of the Payment of Compensation or Notice of Refused or Disputed Claim (TWCC-21) dated March 29, 2001, sufficiently disputed the claimed left knee injury. The claimant appealed the hearing officer's determination that the compensable injury does not extend to and include an injury to her left knee on sufficiency grounds. The self-insured responded, asserting that the claimant's appeal was untimely, and, in the alternative, urged affirmance. Neither party appealed the hearing officer's determination that the self-insured did not waive the right to contest compensability of the claimed left knee injury. Therefore, that determination has become final. Section 410.169.

DECISION

We affirm.

We first address the self-insured's assertion that the claimant failed to timely file a request for review. Section 410.202 was amended effective June 17, 2001. While a party is required to file a request for an appeal of a hearing officer's decision not later than the 15th day after the date the appellant received the CCH decision and order, Section 410.202(d) provides that weekends and the holidays listed in Section 662.003 of the Government Code are not included in the computation of time to file an appeal or response. The claimant was deemed to have received the CCH decision and order on December 17, 2001, and the due date was January 11, 2002. Her appeal was received by the Texas Workers' Compensation Commission on January 9, 2002, and was, therefore, timely.

It is undisputed that the claimant sustained a compensable head, left trapezius, left elbow, and left hand injury as a result of a fall, which occurred on _____. At issue is whether the compensable injury sustained on _____, extends to and includes an injury to the claimant's left knee.

We have held that the question of the extent of an injury is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.). The finder of fact may believe that the claimant has an injury, but

disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). We cannot say that the hearing officer was incorrect as a matter of law in finding that the claimant did not meet her burden of proof. This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar, *et al.* v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). We conclude that the hearing officer's findings, conclusions, and decision are supported by sufficient evidence and that they are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

According to information provided by carrier, the true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

HS
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Gary L. Kilgore
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge