

APPEAL NO. 020229  
FILED FEBRUARY 27, 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 was held on December 18, 2001. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, did not extend to and include an injury to his left knee. The claimant appeals, arguing that the left knee injury was a follow-on injury that naturally resulted from the right knee injury, and it is therefore compensable. The respondent (carrier) replies, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury to his right knee on \_\_\_\_\_, and had surgery on the right knee on August 8, 2001. The claimant was using crutches to get around after the surgery, and fell at his home in late August 2001, resulting in an injury to his left knee. The hearing officer's decision in this case is squarely in accord with the law and previous Appeals Panel decisions which have held that subsequent injuries are not compensable unless they "naturally result" from the compensable injury. *See, for example*, Texas Workers' Compensation Commission Appeal No. 000594, decided May 8, 2000, and cases cited therein.

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 the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Edward Vilano  
Appeals Judge

CONCURRING OPINION:

I concur in the result reached by the majority. The question of whether or not the claimant's subsequent fall naturally resulted from his compensable injury was one of fact. Texas Workers' Compensation Commission Appeal No. 93672, decided September 16, 1993. The great weight and preponderance of the evidence was not contrary to the hearing officer's factual determination. Therefore, applying the correct standard of review, we should affirm the decision of the hearing officer, who is the finder of fact under the 1989 Act. 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.).

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Gary L. Kilgore  
Appeals Judge