

APPEAL NO. 020304
FILED MARCH 15, 2002

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 012750, decided December 17, 2001, where we remanded the case for the street address of the registered agent for service of process. That information was obtained from the appellant (carrier) and provided to the respondent (claimant). The hearing officer then issued a decision and order which includes matters pertaining to the remand, but otherwise amounts to the reissuance of her previous decision and order. 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 23, 2001. The hearing officer determined that the claimant's compensable injury of _____, does extend to and include an oblique tear of the posterior horn of the medial meniscus of the right knee but not chondromalacia of the right knee. The carrier appeals, arguing that the evidence is insufficient to establish a reasonable medical probability that the injury was caused by the incident on _____. The claimant did not respond to the appeal of the decision on remand, although he had responded to the original appeal, urging affirmance.

DECISION

Affirmed.

An injury is "damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm." Section 401.011(26). Whether an employee has "a disease or infection naturally resulting from the damage or harm," or whether an injury extends to a particular member of his body is a factual matter for the hearing officer to determine. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Where the matter of the causation of the claimed injury is beyond common knowledge or experience, expert evidence to a reasonable degree of medical probability is required. Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1980); Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana 1974, writ ref'd n.r.e.). The claimant sustained a compensable injury on _____. He immediately reported the right ankle and right knee injury. An MRI done on April 5, 2001, confirmed an oblique tear of the posterior horn of the medial meniscus of the right knee, as well as other conditions of the knee, including chondromalacia. The carrier is essentially arguing that the medical evidence of the other conditions makes it more likely that the claimant sustained another injury which was responsible for the claimed conditions beyond the ankle and knee sprains that were accepted as compensable. The hearing officer was presented with a substantial amount of conflicting medical evidence and opinions on the issue of extent of injury. There is evidence which sufficiently supports the hearing officer's factual determination that the compensable injury extends to and includes the medial meniscus tear.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of any witness's testimony because the finder of fact judges the credibility of each and every witness, determines the weight to assign to each witness's testimony, and resolves conflicts and inconsistencies in the evidence. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd S n.r.e.); Texas Workers' Compensation Commission Appeal No. 93426, decided July 5, 1993. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ).

The Appeals Panel will not substitute its own judgment for that of the trier of fact even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). Only were we to conclude, which we do not in this case, that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust, would there be a sound basis to disturb those determinations. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Since we find the evidence sufficient to support the determinations of the hearing officer, we will not substitute our judgment for hers. Texas Workers' Compensation Commission Appeal No. 94044, decided February 17, 1994.

We affirm the decision and order of the hearing officer.

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

**ROBERT SIDDON'S
11612 RM 2244, BUILDING 1, SUITE 200
AUSTIN, TEXAS 78733.**

Michael B. McShane
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge