

APPEAL NO. 020859
FILED MAY 20, 2002

Following a contested case hearing held on March 11, 2002, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by determining that the appellant (claimant) did not have disability as a result of the injury sustained on _____, from _____, to the date of the hearing. The claimant has appealed on evidentiary sufficiency grounds. The respondent (carrier) urges the sufficiency of the evidence to support an affirmance.

DECISION

Affirmed.

The claimant testified that on _____, her first day on the job site for an assignment from her employer, a temporary employment agency, she slipped and struck her left knee against a pole attempting to avert a fall; that she continued to work light, sedentary duty until sometime in August 2000 when she stopped being treated conservatively by Dr. S for a knee strain and also stopped working because her knee was "bothering [her] a lot"; that during the first week in January 2001, she started working for another employer, filling office supply orders in a warehouse, but only worked one week because her knee was bothering her; and that on _____, she commenced chiropractic treatment with Dr. D, who took her off work and initiated more conservative treatment. The claimant contended that she had disability as of _____, and continuing through the date of the hearing. In determining that the claimant did not have disability, as defined in Section 401.011(16), the hearing officer comments that the claimant was treated for a knee strain; that an MRI showed no internal derangement and some chondromalacia and bursitis, which the hearing officer deems ordinary diseases of life; and that it is not reasonable to believe that a knee strain existed for almost two years. The hearing officer concludes that the claimant failed to produce credible evidence of disability for the period claimed.

The claimant contends on appeal that, based on certain questions posed by the hearing officer during the claimant's opening statement and at other points during the hearing, the hearing officer reflected "passion, bias, and prejudice" and decided the disputed issue adversely to the claimant on that basis. This allegation is not supported by the record. The hearing officer asked certain straightforward questions to get the chronology and certain medical and employment history facts straight in her mind. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and is not bound to accept the testimony of a claimant, an interested party (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We are satisfied that the challenged determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Insurance Company, an impaired carrier**, and the name and address of its registered agent for service of process is

**MARK RERIEGLING
9120 BURNET RD.
AUSTIN, TEXAS 78758.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Roy L. Warren
Appeals Judge