

APPEAL NO. 021090
FILED JUNE 19, 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 April 3, 2002. In Docket No. 1, the hearing officer determined that (1) the appellant (claimant) did not sustain an injury on or about _____; (2) the claimed injury arose while in the course and scope of employment on or about _____; (3) the claimant did not have disability; and (4) (carrier 1) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001.

In Docket No. 2, the hearing officer determined that (5) the claimant did not sustain a compensable injury on _____; (6) the claimant did not have disability; (7) (carrier 2) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify his employer pursuant to Section 409.001; and (8) carrier 2 did not waive its right to contest compensability of the claimed injury because carrier 2 timely contested the injury in accordance with Section 409.021. The claimant appeals the hearing officer's determinations (1) and (3) through (8), on sufficiency grounds. The carriers urge affirmance.

DECISION

Affirmed.

The hearing officer did not err in reaching the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, as in this case. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). While there is evidence to support an aggravation of the knee, especially from the second fall, there is also medical evidence in June and July 2001 that the claimant had full range motion of his knee and no loosening of his prosthesis.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier 1 is **AMERICAN INTERSTATE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**STEVE ROPER
1616 SOUTH CHESTNUT STREET
LUFKIN, TEXAS 75901.**

The true corporate name of the insurance carrier 2 is **GREAT AMERICAN ALLIANCE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge