

APPEAL NO. 021518
FILED JULY 22, 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 May 22, 2002. The hearing officer determined that the respondent/cross-appellant's (claimant) _____, compensable injury includes the right knee lateral meniscus tear and the left knee anterior cruciate ligament tear, and that he did not have disability. The appellant/cross-respondent (carrier) appealed, arguing that the hearing officer erred in determining extent of injury. The claimant cross-appealed arguing that the hearing officer erred in determining disability, and concurrently responded urging affirmance of the hearing officer's extent-of-injury determination. Subsequently, the claimant submitted an untimely supplementation of his cross-appeal, adding documentation not in evidence at the CCH to support his disability argument. The carrier responded arguing that the claimant's supplementation of his cross-appeal contained documentation not in evidence at the CCH and should not be considered.

DECISION

Affirmed.

The claimant submitted an untimely supplementation of his cross-appeal, which contained documentation not in evidence at the CCH. We cannot consider the supplementation of the claimant's appeal because it was untimely. Nor do we normally consider evidence submitted for the first time on appeal and we do not find the newly submitted evidence to meet the requirements set out in Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ); therefore, it will not be considered on appeal.

The issues of extent of injury and disability were questions of fact for the hearing officer to resolve. Section 410.165(a). Disability is defined as the inability because of a compensable injury to obtain and retain employment at the preinjury wage. Section 401.011(16). Conflicting evidence was presented regarding the issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We have reviewed the complained-of determinations. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

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

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

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Michael B. McShane
Appeals Judge