

APPEAL NO. 030173
FILED MARCH 7, 2003

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 January 2, 2003. With respect to the issues before her, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that he had disability, as a result of his compensable injury, from March 18, 2002, through the date of the hearing. In its appeal, the appellant (carrier) essentially argues that the injury and disability determinations are against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. That issue presented a question 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). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence on the issue of whether the claimant injured his left knee after he twisted it stepping down from a ladder as the claimant claimed or whether he injured his knee playing soccer as evidence presented by the carrier suggested. It was a matter for the hearing officer, as the fact finder, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). We find no merit in the carrier's assertion that the hearing officer "put the burden on the Carrier and not the Claimant to substantiate that the Claimant was not involved in an injury rather than the Claimant having the burden of proof of substantiating an on-the-job compensable injury." There is simply no evidence to support this assertion. The fact that the hearing officer resolved the credibility issues in favor of the claimant in no way demonstrates that she improperly placed the burden of proof on the carrier.

The success of the carrier's argument that the claimant did not have disability is dependent upon the success of its argument that the claimant did not sustain a compensable injury. Given our affirmance of the determination that the claimant sustained a compensable injury on _____, we likewise affirm the determination that he had disability, as a result of his compensable injury, from March 18, 2002, through the date of the hearing.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACE FIRE UNDERWRITERS** and the name and address of its registered agent for service of process is

**ROBIN MELTON
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Roy L. Warren
Appeals Judge