APPEAL NO. 030182
FILED MARCH 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested hearing (CCH) was held on January 7, 2003. With regard to the disputed issue at the CCH, the hearing officer determined that respondent 1's (claimant) compensable injury of _____, to her right knee extends to include right lateral and medial meniscus tears. The appellant (carrier) appeals, seeking reversal of the decision on the grounds that respondent 2 (subclaimant) did not meet its burden of proof and failed to comply with a discovery request, and that the hearing officer's findings were so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. The subclaimant responds, urging affirmance. The claimant did not respond.

DECISION

Affirmed.

At the hearing, the carrier on the record asked for a continuance until the subclaimant complied with certain discovery requests. The hearing officer decided to "go forward for awhile and then we may stop and talk about this some more." The hearing officer never made a ruling on the matter of a continuance and the carrier did not reurge it. Because the hearing officer had indicated he would delay ruling on the motion, it was incumbent upon the carrier to reurge the motion and it waived any possible error by failing to do so. S*ee* Texas Workers' Compensation Commission Appeal No. 941288, decided November 8, 1994.

Whether the compensable injury extends to a particular body part is a question of fact for the fact finder. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given evidence. There was conflicting evidence in this case. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. commercial insurance company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). 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 trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record reveals that the hearing officer's extent-of-injury determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

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

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

_____
Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

_____
Thomas A. Knapp
Appeals Judge

_____
Robert W. Potts
Appeals Judge