

APPEAL NO. 031413
FILED JULY 8, 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 May 5, 2003. With respect to the issues before him, the hearing officer determined that the appellant's (claimant) compensable injury of _____, does not extend to and include an injury to the right knee and that the claimant did not have good cause for failing to submit to the designated doctor's examination on October 14, 2002. In her appeal, the claimant challenges each of those determinations as being against the great weight of the evidence. In addition, the claimant asserts that the hearing officer was "biased" against her and "did not make a fair decision." In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that her _____, compensable injury included a right knee injury. That issue presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained her burden of proving the causal connection between her compensable injury and a right knee injury. The hearing officer was acting within his province as the finder of fact in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer likewise did not err in determining that the claimant did not have good cause for failing to submit to the designated doctor's examination. That issue also presented a question of fact for the hearing officer. In this instance, the hearing officer was not persuaded that the claimant provided sufficient explanation for failing to attend the designated doctor's appointment to sustain her burden of proving good cause for that failure. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to compel its reversal.

Finally, the claimant asserts that the hearing officer was "biased" against her and "did not make a fair decision." The record does not reveal hearing officer bias nor does it reveal that the hearing officer's decision was based upon anything other than his impartial credibility determinations.

The hearing officer's decision and order are affirmed.

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

**MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge