

APPEAL NO. 031684
FILED AUGUST 11, 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 June 11, 2003. The hearing officer determined that the appellant's (claimant herein) compensable injury of _____, does not extend to or include:

MRI findings of the lumbar spine dated 9-04-02 (small midline disc extrusion with slight inferior extension at L-5-S1 [sic]. This could be a source of significant discogenic pain. It is not associated with stenosis); MRI findings of the left knee dated 1-26-01 (1. Small amount of retropatellar chondromalacia. 2. Shallow medial facet to the trochlea. 3. Conversion of yellow to red marrow in the distal femur. This is a common finding in smokers and women); and/or MRI findings of the left knee dated 8-30-02, (1. Patella with lateral tilt without chondromalacia. 2. Myxoid degeneration of the posterior horn of the medial meniscus without tears. 3. Small joint effusion. 4. Bone marrow conversion of the distal femur and proximal tibial shaft. This finding has been associated with middle-aged females, smokers and in patients with chronic anemia.)

The claimant essentially files a factual sufficiency request for review. There is no response from the respondent (carrier) contained in our file.

DECISION

Affirmed.

The claimant testified that she was cleaning a room for her employer on _____, when she got tangled in sheets and fell to her knees. The carrier accepted only a contusion injury to the claimant's left knee. The hearing officer noted that the claimant was prescribed physical therapy until November 27, 2000, when her doctor indicated the contusion had resolved and released the claimant from further medical care. The claimant contends that although she continued to work, she continued to have problems associated with her knee and that on August 11, 2002, while she was pushing a cart her knee gave out on her. She testified that when her knee gave out she twisted her back, causing a lumbar injury.

The claimant had the burden to prove that her compensable injury extends to include the MRI findings regarding her lumbar spine and her left knee. There is conflicting evidence in this case. 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). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). An appellate body is not a fact finder and

does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Worker's Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's extent-of-injury determination is supported by sufficient evidence and that it is not 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

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

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Panel