

APPEAL NO. 032560
FILED NOVEMBER 12, 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 (CCH) was held on September 4, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable (right knee) injury on _____, and that the claimant had disability from June 27, 2002, and continuing through the date of the CCH.

The appellant (self-insured) appeals the disability determination, contending that the hearing officer's determinations are so against the great weight of the evidence as to be manifestly unjust and should be reversed. There is no response on file from the claimant.

DECISION

Affirmed.

The claimant testified that on _____, he was stepping down from the truck cab of the 18-wheeler he drove for the employer when he twisted and injured his right knee. He testified that he was able to work the next day, was off on June 26, 2002, and then was unable to work his next two scheduled days, June 27 and June 28, 2002, because of his injury. The claimant testified that he got a light-duty release but there was no light-duty offer from the employer.

The hearing officer stated that he found the claimant's testimony plausible, reasonably consistent with the other evidence and credible. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established.

The self-insured argues that the claimant clearly did not meet his burden regarding disability and asserts that the claimant's self-employment in a second job at a "tire store," which the claimant had prior to the injury, showed that he did not have disability. In any event, whether the claimant had disability as defined in Section 401.011(16) was a matter for the hearing officer to resolve. The hearing officer commented that the claimant's "testimony and the medical evidence support disability from June 27, 2002 through the date of the [CCH]." The hearing officer, not the Appeals Panel, is the sole judge of credibility. We would also note that disability may be established by the claimant's testimony alone, if believed by the hearing officer. Gee v. Liberty Mutual Fire Insurance Company, 765 S.W.2d 394 (Tex. 1989). The hearing officer's determinations are supported by the evidence.

We have reviewed the complained-of determinations and conclude that the hearing officer's determinations are not so against the great weight and preponderance

of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured entity)** and the name and address of its registered agent for service of process is

**SA
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge