APPEAL NO. 032648
FILED NOVEMBER 20, 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 August 26, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and that because the claimant did not sustain a compensable injury the claimant did not have disability.

The claimant appealed, asserting that the hearing officer's decision is against the great weight of the evidence, that the hearing officer considered "evidence" not presented at the CCH, and that liberal construction of the 1989 Act requires a finding in favor of the claimant. The carrier responds, urging affirmance.

DECISION

Affirmed.

It is relatively undisputed that the claimant, a fry cook, bumped a cart with his right leg on _____, and that an MRI performed on March 3, 2003, shows three ligament tears in the claimant's right knee. In dispute are whether the cart was metal or plastic, the size of the cart, whether the claimant's knee hit the cart, whether the claimant's knee twisted, and generally the mechanics of the bumping incident. The hearing officer found that the claimant bumped a plastic cart, recited the size of the cart, and determined that the incident of the claimant hitting the cart with his right leg was not sufficient trauma to cause the torn ligaments. The hearing officer, in his Statement of the Evidence, recites in some detail how he arrived at his conclusion.

The claimant asserts that the hearing officer's decision is against the great weight of the evidence. We disagree. The evidence on many of the facts was clearly conflicting, and it is the province of the hearing officer, as the trier of fact and sole judge of the weight and credibility of the evidence, to resolve the conflicts and determine what facts the evidence has established.

The claimant contends that the hearing officer considered evidence not presented at the hearing in finding the dimensions of the plastic cart and determining that the cart was not tall enough to reach the claimant's knee. Certainly there was ample testimony on both direct and cross-examination of both the claimant and his immediate supervisor, who witnessed the bump, for the hearing officer to make his determinations. Further, the hearing officer saw the claimant and was able to witness the demonstration of how the bump happened. We reject the claimant's contention on this point.

As for the liberal construction contention, applying that doctrine does not mean that every conflict in the evidence must be decided in the claimant's favor. Further, the

claimant cites Texas Workers' Compensation Commission Appeal No. 013126, decided January 28, 2002, asserting error where the hearing officer, in that case, found the injured employee had not suffered a meniscus tear because "meniscus tears tend to be twisting and the mechanics of the . . . injury involve a direct blow." However, we note that the Appeals Panel affirmed the hearing officer in that case.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The hearing officer's determinations are supported by sufficient evidence and 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 **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

LEO MALO
ZURICH NORTH AMERICA
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Margaret L. Turner
Appeals Judge

_____
Edward Vilano
Appeals Judge