APPEAL NO. 040106
FILED MARCH 1, 2004

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 December 3, 2003. Using the terminology of the agreed-on disputed issue, the hearing officer determined that the respondent's (claimant) compensable injury of _____, "includes or extends to include arthritis and/or chondromalacia on the left knee."

The appellant (self-insured) appeals, asserting error in some of the hearing officer's wording, and contending that the hearing officer failed to give sufficient weight to medical evidence of "an old ununited avulsion fracture" of the left knee, and generally asserting the cause of the claimant's problems was a preexisting degenerative condition. The self-insured also asserts that the claimant failed to provide medical evidence within reasonable medical probability that he had suffered an aggravation injury. The claimant responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that on _____, the claimant was walking down a flight of stairs and either tripped or missed a step falling onto his left knee. The parties stipulated that on _____, the claimant "sustained a medial and lateral meniscal tear injury of the left knee." The hearing officer determined that the claimant's "preexisting arthritis/chondromalacia of the left knee was worsened, accelerated, or enhanced to a degree of reasonable medical probability, by direct trauma sustained to the left knee during the compensable injury-producing accident on _____." The self-insured argues that that determination requires expert medical evidence of causation. We disagree. The hearing officer, based on common knowledge and experience, could (and did) find that a severe blow of falling on the left knee could aggravate a preexisting arthritic condition. Furthermore, Dr. O, the self-insured's expert witness, acknowledged that a nonsymptomatic "arthritic condition can become painful after trauma." The self-insured makes much of the fact that an x-ray taken two days after the injury showed an "old ununited avulsion fracture" of the left knee. The claimant denied any prior injury (which led the self-insured to question the claimant's credibility) and pointed out that there was no medical evidence showing treatment for that condition prior to _____, and that he had been working full regular duty prior to the compensable injury. The self-insured also complains that the hearing officer "consistently links . . . chondromalacia and arthritis together when both are separate and distinct diseases." That may be, however, the agreed-upon issue refers to "arthritis and/or chondromalacia" and the self-insured on various occasions referred to the conditions together. We perceive no error.

Much of the medical evidence dealt with the claimant's impairment rating, which was not an issue in this case, rather than causation of the extent of injury. Dr. K, in a report referred to by both parties and the hearing officer, stated "using arthritis of the left knee and no arthritis of the right knee to assist me in making the diagnosis that the patient's problem in the left knee is indeed, in all medical probability, related to his compensable injury." In any event, the medical evidence was conflicting and subject to differing interpretations. The 1989 Act makes the hearing officer the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence in favor of the claimant. Nothing in our review of the record reveals that the challenged determinations are 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). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

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

MANAGER
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Thomas A. Knapp
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge