

APPEAL NO. 041905  
FILED SEPTEMBER 22, 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 (CCH) was held on July 19, 2004. The hearing officer resolved the disputed issues by deciding that the compensable injury includes a cartilage deficit but does not include Osgood-Schlatter's Disease, and that the respondent (claimant) had disability on December 11, 2003, and continuing through January 4, 2004, and on January 27, 2004, continuing through the date of the CCH. The appellant (carrier) appealed, disputing the disability determinations and the determination that the compensable injury includes a cartilage deficit. The carrier contends that the disputed determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. The appeal file does not contain a response from the claimant. The determination that the compensable injury does not include Osgood-Schlatter's Disease was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The parties stipulated that on \_\_\_\_\_, the claimant sustained a compensable injury. Whether the compensable injury included a cartilage deficit and whether the claimant had disability were questions of fact for the hearing officer to resolve. The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to 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. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they 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); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer was persuaded that the compensable injury extended to include a cartilage deficit, and that the claimant sustained his burden of proving that his compensable injury was a cause of his inability to obtain and retain employment at his preinjury wage for the time periods found. The hearing officer specifically noted that the claimant's testimony was credible and persuasive. Nothing in our review of the record reveals that the disputed determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to

disturb the challenged extent-of-injury and disability determinations on appeal. Cain supra; Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge