APPEAL NO. 002289

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 August 31, 2000. The hearing officer determined that: (1) the respondent (claimant) sustained a compensable injury while in the course and scope of her employment; (2) the claimant had disability from November 8, 1999, to the date of the hearing; and (3) the claimant timely reported her injury. The appellant (carrier) appealed these determinations on sufficiency grounds. The file does not contain a response to the carrier's appeal.

DECISION

We affirm.

The carrier contends that the hearing officer erred in determining that the claimant was in the course and scope of employment at the time of her injury. The carrier asserts that the claimant did not report the fact that her injury was work related.

Claimant testified that she had been out of town in (City A), Texas, working for her employer for two months at the time of her injury on Monday morning, November 8, 1999. She said her husband and son had visited her for the weekend, and that at 6:30 a.m. Monday morning, she was walking to retrieve her son to go to breakfast when she fell and injured her shoulder. Claimant testified that she was injured in the hotel where she was staying on business. Claimant said she had a laptop computer and worked out of her room as well as at the courthouse in City A. Claimant said her family was about to leave to go back home that day. Claimant said she talked to her supervisor, Mr. H, that day and told him she had injured her shoulder when she fell in the hotel. Claimant said the employer paid for the hotel directly. Claimant said Mr. H knew she was on a crew working in City A. She said she told Mr. H where the company truck was that she had been driving, where the keys were, and things the employer needed to know to "make sure everything was safe and secure." Claimant said the doctor she saw indicated that Mr. L, another supervisor, had called the doctor's office about her injury.

At issue in this case is whether claimant was in the course and scope of her employment at the time of her fall. Carrier asserts that claimant was engaged in a personal errand at that time, so her injury is not compensable. The applicable law and our standard of review in this case is discussed in Texas Workers' Compensation Commission Appeal No. 000679, decided May 16, 2000. An employee whose work involves travel away from the employer's premises is in the course and scope of employment continuously during the trip, except when a distinct departure on a personal errand is shown. *See* Texas Workers' Compensation Commission Appeal No. 000229, decided March 23, 2000. Injuries arising out of the necessity of sleeping in hotels and eating in restaurants away from home are usually compensable. Appeal No. 000679, *supra*. The question of whether a claimant is engaged in a personal errand at the time of an injury is a fact question for the hearing

officer to resolve. Texas Workers' Compensation Commission Appeal No. 980907, decided June 15, 1998.

The hearing officer determined that claimant was not deviating from activities incident to her employment when she sustained her injury and that she was in the course and scope of her employment at the time of her fall. A key factor in this case is that claimant was out of town on business at the time of her injury. The hearing officer could determine that the fact that family joined her in her morning meal at her hotel did not constitute a substantial deviation such that claimant was no longer in the course and scope of her employment on this business trip. Appeal No. 000229, *supra*. The record does not establish that claimant was embarking on a personal or recreational errand, and the hearing officer could determine that claimant was merely on her way to obtain a meal at her hotel. Nothing in our review of the record demonstrates that the hearing officer's determinations in that regard are so contrary to the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Carrier contends that the hearing officer erred in determining that claimant timely reported her injury to her employer. Carrier asserts that claimant reported an injury, but that she did not tell her employer that it was job related. The 1989 Act generally requires that an injured employee or person acting on the employee's behalf notify the employer of the injury not later than 30 days after the injury occurred. Section 409.001. To fulfill the purpose of the notice of injury provision, the employer need only know the general nature of the injury and the fact that it is work related. Texas Workers' Compensation Commission Appeal No. 001829, decided September 20, 2000.

The hearing officer determined that claimant immediately reported the circumstances of her injury to her supervisor. Given the fact that claimant was out of town on business and that she reported that she fell and injured herself at her hotel, we conclude that the hearing officer could determine that claimant timely reported her injury to her employer.

The carrier did not challenge the determination that claimant injured her shoulder or the period of disability. Claimant's testimony supports these determinations, in any case. Given our affirmance of the appealed determinations, we also affirm the determination that claimant sustained a compensable injury and that she had disability from November 8, 1999, to the date of the hearing.

We affirm the hearing officer's decision and order.

Judy L. Stephens
Appeals Judge

CONCUR:

Kathleen C. Decker
Appeals Judge

Susan M. Kelley
Appeals Judge