

APPEAL NO. 011740
FILED SEPTEMBER 11, 2001

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 July 9, 2001. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from _____, through the date of the hearing. The appellant (carrier) appeals the determinations on sufficiency grounds, asserting that the claimant was injured while on a personal errand not in the course and scope of employment. The claimant urges affirmance.

DECISION

Affirmed.

COMPENSABLE INJURY

The hearing officer did not err in determining that the claimant sustained a compensable injury on _____. The claimant had the burden to prove that she sustained damage or harm to the physical structure of her body, arising out of and in the course and scope of her employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. There was conflicting evidence presented with regard to this issue. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). While the carrier argues that the claimant was on a personal errand at the time of her injury, we find sufficient evidence in the testimony of the claimant to support the hearing officer's fact findings that the claimant was furthering the affairs of the employer at the time of the injury. The hearing officer's determination is 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 (Tex. 1986).

DISABILITY

The hearing officer did not err in determining that the claimant had disability from _____, through the date of the hearing. Whether disability exists is a question of fact for the hearing officer. Texas Workers' Compensation Commission Appeal No. 000303, decided March 29, 2000. In view of the medical evidence and the claimant's testimony, we cannot conclude that the hearing officer's disability determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain, supra.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, COMMODORE 1, SUITE 750
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Michael B. McShane
Appeals Judge