

APPEAL NO. 011812  
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 2, 2001. The hearing officer resolved the disputed issues by deciding that the appellant (carrier) is not relieved of liability for compensation under Section 406.032(1)(A) because the respondent's (claimant) injury did not occur while the claimant was in a state of intoxication as defined by Section 401.013, and that the claimant had disability, as defined by Section 401.011(16), from February 21, 2001, through May 4, 2001. The carrier appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

It is undisputed that the claimant sustained an injury while working for the employer on \_\_\_\_\_. Conflicting evidence was presented on the intoxication issue. The hearing officer determined that the carrier presented sufficient evidence to shift the burden to the claimant to prove that he was not intoxicated at the time of his injury. See March v. Victoria Lloyds Insurance Company, 773 S.W.2d 785 (Tex. App.-Fort Worth 1989, writ denied). The hearing officer resolved the conflicts in the evidence in favor of the claimant and determined that at the time of the injury, the claimant had the normal use of his mental and physical faculties. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. The hearing officer's decision on the issues of intoxication and disability are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS INSURANCE COMPANY OF WAUSAU, A MUTUAL COMPANY** and the name and address of its registered agent for service of process is

**RICK KNIGHT  
105 DECKER COURT, SUITE 600  
IRVING, TEXAS 75062.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge