APPEAL NO. 011873
FILED SEPTEMBER 27, 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 17, 2001. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on _____, and that he had disability from December 30, 2000, continuing through May 3, 2001. The appellant (carrier) appealed, asserting that the claimant was not in the course and scope of his employment at the time his alleged compensable injury occurred, and that he failed to prove the cause of his injuries. There was no response from the claimant.

DECISION

Affirmed.

The facts of this case are discussed at length in the hearing officer's decision and order, and will not be repeated here. The claimant was a car salesman for the employer. On _____, a former customer of the claimant and the employer contacted the claimant and informed him that he wanted to purchase a truck. At the direction and authorization of his supervisor, the claimant took a truck home with him that evening so that he could bring it to the customer the next morning. The claimant did so, and while returning to his office after showing the truck to the customer, he was involved in a motor vehicle accident (MVA). The claimant was involved in a second MVA on _____. It is undisputed that the claimant was not in the course and scope of his employment at the time of the second MVA. On appeal, the carrier asserts that the claimant was not in the course and scope of his employment at the time of the December 29, 2000, and, further, that he did not sustain his burden of proof to establish that he suffered any injuries as a result of that accident as opposed to the MVA of _____.

Course and scope of employment means an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The general rule is that an injury occurring in the use of the public streets or highways in going to and returning from the place of employment is noncompensable. American General Insurance Co. v. Coleman, 303 S.W.2d 370 (Tex. 1957). An exception to the general rule is contained in Section 401.011(12)(A)(iii), which provides, in pertinent part, that travel to and from the place of employment is covered if the employee is directed in the employee's employment to proceed from one place to another place, i.e., is directed on a special mission.

There is sufficient evidence to support a determination that the claimant was acting at the employer's direction while furthering the employer's business and that he was in fact on a special mission at the time of the accident. As the hearing officer noted, the claimant was not just returning to work but was returning the truck to the employer as well. There

is no evidence that the claimant had deviated from his special mission at the time of the accident.

The carrier asserts that the claimant's injuries were solely caused by the second nonwork-related MVA. Whether a claimant's medical problems reflect the continuing effects of a compensable injury or are solely caused by an intervening or subsequent event is a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 92681, decided February 3, 1993. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). There was conflicting evidence presented on all issues. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his role as fact finder in determining that the claimant sustained his burden of proof on both issues. Nothing in our review of the record indicates that the challenged determinations are so against the great weight of the evidence so as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb those determinations on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

JOSEPH KELLEY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY, NORTH
AUSTIN, TEXAS 78755.

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge