

APPEAL NO. 012175
FILED NOVEMBER 5, 2001

Following a contested case hearing held in El Paso, Texas, on August 15, 2001, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable injury on _____; that she had disability from March 8 through July 30, 2001; and that she is not barred from pursuing Texas workers' compensation benefits because of an election to receive benefits under a group health insurance policy. The appellant,(carrier), has appealed the injury and disability determinations on evidentiary sufficiency grounds. The claimant's response urges the sufficiency of the evidence to support the challenged determinations.

DECISION

Affirmed.

The claimant testified that while at work on _____, she walked towards a filing cabinet to file some papers, somehow tripped over her own feet, and fell to the floor, landing on her right side and injuring her right knee. She said she sought treatment for the knee at an emergency room that day and returned to work at her regular duties as a quality control inspector on July 31, 2001. The claimant testified that the floor was not wet or uneven and that she was not turning or twisting but was merely walking when she tripped and fell to the floor. The carrier argues that the decision in Texas Workers' Compensation Commission Appeal No. 980631, decided May 14, 1998, is dispositive of this case because "these are essentially the same facts as our case," and that "[t]here is no evidence of any instrumentality of the workplace involved" The decision in Appeal No. 980631 reversed and rendered a new decision that the employee was not injured in the course and scope of her employment where the evidence showed that the employee's knee just "went out" on her while she was merely walking down a hall. Contrary to the contention of the carrier, there is indeed a critical distinction between these cases in that the claimant here fell to the floor and injured her knee. The employee in Appeal No. 980631 did not fall. So, clearly, there was an instrumentality of the workplace involved in the claimant's injury, namely, the workplace floor. For some basic case law on the subject of idiopathic falls see Texas Workers' Compensation Commission Appeal No. 931083, decided January 10, 1994, and Texas Workers' Compensation Commission Appeal No. 012124, decided October 23, 2001. For a case quite comparable to the case we here consider see Texas Workers' Compensation Commission Appeal No. 000074, decided February 25, 2001. We are satisfied that the challenged factual findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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

**HIGHLANDS INSURANCE COMPANY
JAMES W. HOOKER
10370 RICHMOND AVE.
HOUSTON, TEXAS 77042.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge