

APPEAL NO. 012208  
FILED OCTOBER 23, 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 August 29, 2001. With regard to the issues before her, the hearing officer determined the following:

1. The claimed injury of \_\_\_\_\_, occurred while the appellant (claimant) was in a state of intoxication as defined in Section 401.013, from the induction of a controlled substance, thereby relieving the respondent (carrier) of liability;
2. Because the carrier is relieved of liability, the claimant did not sustain a compensable injury on \_\_\_\_\_; and
3. The claimant did not have disability resulting from the injury sustained on \_\_\_\_\_.

The claimant appeals, arguing that the hearing officer erred in regard to compensability, disability, and intoxication. The carrier urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The claimant was drug screened for controlled substances before he received medical care, and the test result was positive for cocaine metabolite. The Appeals Panel has held that a positive test for a controlled substance will generally shift the burden to the claimant to prove that he was not intoxicated at the time of the injury. Texas Workers' Compensation Commission Appeal No. 91018, decided September 19, 1991; *see also*, Texas Workers' Compensation Commission Appeal No. 012026, decided September 25, 2001. The hearing officer did not err in shifting the burden to the claimant to prove that he was not intoxicated based on the drug screen and the toxicologist's report. Once the burden shifts to the claimant, the claimant must prove that he was not intoxicated.

The hearing officer could find that the claimant's testimony alone was insufficient to prove that he had the normal use of his mental or physical faculties. The evidence sufficiently supports the hearing officer's determinations that the claimant did not sustain a compensable injury in the course and scope of employment and that the claimant did not have disability. *See, generally*, Sections 401.011(10), 401.013, and 401.011(16). Applying our standard of review, we conclude that the hearing officer's determinations are not 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, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge