

APPEAL NO. 012555
FILED NOVEMBER 29, 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 September 19, 2001. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury in the course and scope of his employment on _____, and that the claimant did not have disability. The claimant has appealed these adverse rulings, arguing that under the circumstances, he was in the course and scope of his employment when he was injured. The respondent (self-insured) replied, urging that the decision and order of the hearing officer be affirmed.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury in the course and scope of his employment on _____. The claimant, a bus driver who was going from home to a required retraining class following a five-day suspension from work, sprained his ankle while exiting one bus to transfer to another bus that would take him to the class. The claimant was not required to ride the bus to the training; he chose to do so because it was a less expensive way for him to get there, as employees can use a pass to ride for free. The claimant had the burden to prove that he sustained damage or harm to the physical structure of the body, arising out of and in the course and scope of his employment. Texas Workers' Compensation Commission Appeal No. 91028, decided October 23, 1991. The evidence presented was not in dispute, and this case turned on application of the law to the facts. The hearing officer correctly applied the law to the facts of this case in determining that the claimant was not on duty, and was not furthering the affairs of the employer at the time of the injury. He correctly concluded that the claimant was not in the course and scope of his employment when he was injured.

The hearing officer did not err in determining that the claimant did not have disability from the alleged injuries. The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because the claimant was found not to have a compensable injury, the hearing officer properly concluded that the claimant did not have disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**SHIRLEY A. DeLIBRO
1201 LOUISIANA STREET, 16TH FLOOR
HOUSTON, TEXAS 77002.**

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge