

APPEAL NO. 020230
FILED MARCH 1, 2002

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 January 7, 2002. The hearing officer determined that (1) the appellant (claimant) was not in the course and scope of her employment when involved in a motor vehicle accident (MVA) on _____; and (2) the claimant did not have disability. The claimant appeals on legal and factual grounds. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

COURSE AND SCOPE

The hearing officer did not err in determining that the claimant was not in the course and scope of her employment when involved in an MVA on _____. The claimant worked as a circulation manager for the (employer)—a newspaper of wide circulation in the area of (City 1). The claimant's responsibilities included overseeing several regional offices, including one in (City 2). In the weeks preceding the date of injury, the claimant was directed by her supervisor to report to the regional office in City 2 to resolve problems with the newspaper's circulation. On _____, the claimant left her home in City 1 and proceeded directly to the regional office in City 2. On her return to City 1, before reaching the city limits of City 1, the claimant was involved in an MVA and sustained a cervical strain injury. The claimant testified that at the time of the accident she was on her way to the central office in City 1, to drop off time-sensitive documents and reports requested by her supervisor. This testimony was corroborated by statements from the regional office supervisor in City 2. The claimant's supervisor testified that the claimant had informed him that she was on her way home at the time of the accident and indicated that she changed her story once she realized that she might not be entitled to workers' compensation benefits. The claimant's supervisor further testified that he had not requested any paperwork be delivered to him at the central office and that the claimant indicated in their conversation that she did not have any paperwork which needed to be delivered to the central office. The claimant used her own vehicle to travel between City 1 and City 2 but testified that she was reimbursed for the travel. The claimant's supervisor indicated that any reimbursement for travel from the claimant's home to City 2 and back was approved in error.

Section 401.011(12)(A) provides that "course and scope of employment" does not include transportation to and from the place of employment unless the transportation is furnished as a part of the contract of employment or is paid for by the employer; the means of the transportation are under the control of the employer; or the employee is directed in the employee's employment to proceed from one place to another place. If an employee comes within one of the stated exceptions to the general "coming and going rule," the

employee must still show that when the injury occurred the employee was furthering the affairs of the employer and thereby within the course and scope of employment. Texas Workers' Compensation Commission Appeal No. 010122, decided March 5, 2001, citing Texas General Indemnity Co. v. Bottom, 365 S.W.2d 350 (Tex. 1963). In view of the evidence presented, the hearing officer could find, as he did, that the claimant was on her way home at the time of the MVA. The hearing officer's determination is 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 (Tex. 1986). Because the claimant was no longer furthering the affairs of the employer at the time of the accident, the resulting injury is not compensable.

DISABILITY

The hearing officer did not err in determining that the claimant did not have disability. 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 did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have a disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**C.T. CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge