

APPEAL NO. 021748
FILED AUGUST 29, 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 June 3, 2002. The hearing officer determined that the appellant (carrier) is not relieved of liability for compensation because the claimed injury was not caused by the respondent's (claimant) willful intention and attempt to injure himself, and that the claimant had disability from _____ to April 29, 2002, and on May 9, 13, 14, and 15, 2002. The carrier appealed, arguing that those determinations are against the great weight and preponderance of the evidence. The file does not contain a response from the claimant.

DECISION

Affirmed.

The parties stipulated that the claimant sustained an injury to his right knee on _____. The claimant testified that he was standing on a ladder, the ladder slid to one side, he panicked and jumped to the ground, he landed on his feet, and fell to the ground. The issue before the hearing officer was whether the claimed injury was caused by the claimant's willful intention to injure himself, thereby relieving the carrier of liability for compensation. Section 406.032(1)(B) provides, in part, that an insurance carrier is not liable for compensation if the injury was caused by the employee's willful attempt to injure himself. The carrier contended that the claimant staged an accident to file a workers' compensation claim.

The hearing officer did not err in determining that the carrier is not relieved of liability for compensation because the claimed injury was not caused by the claimant's willful intention and attempt to injure himself. That issue presented a question of fact for the hearing officer. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In this instance, the hearing officer was not persuaded by the evidence suggesting that the claimant had staged the incident at work. The hearing officer was acting within his province as the fact finder in deciding to reject that evidence in favor of other evidence demonstrating that the claimant was involved in an accident at work on _____, when the ladder he was standing on slipped, causing him to jump from the ladder and fall to the ground. Nothing in our review of the record reveals that the hearing officer's determination that the claimant's injury was not caused by his willful intention to injure himself is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists to reverse that determination, or the determination that the carrier is not relieved of liability for compensation pursuant to Section 406.032(1)(B). Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The success of the carrier's challenge to the disability determination is dependent upon the success of its argument that it should be relieved of liability for compensation in this case under Section 406.032(1)(B). Given our affirmance of the hearing officer's determination that the carrier is not relieved of liability herein, we likewise affirm his determination that the claimant had disability from _____ to April 29, 2002, and on May 9, 13, 14, and 15, 2002.

The hearing officer's decision and order are affirmed.

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

**ROBERT PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231-4813.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge