

APPEAL NO. 022749  
FILED DECEMBER 5, 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 October 1, 2002. The hearing officer determined that (1) the appellant (claimant) had disability from the compensable injury from September 7, 2001, and continuing through the date of the hearing; and (2) the compensable injury occurred while the claimant was in a state of intoxication as defined by Section 401.013, from the introduction of a controlled substance, thereby relieving the respondent (carrier) of liability for compensation. The claimant appeals the intoxication determination on sufficiency grounds. The carrier urges affirmance. The hearing officer's disability determination was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the injury occurred while the claimant was in a state of intoxication from the introduction of a controlled substance. In the case of a controlled substance (Section 481.002, Health and Safety Code), as distinguished from alcohol, intoxication is the state of "not having the normal use of mental or physical faculties resulting from the voluntary introduction into the body of [the controlled substance.]" Section 401.013(a)(2)(B). The sobriety of the injured employee at the time of the injury is presumed but when the carrier rebuts that presumption with probative evidence of intoxication, the burden shifts to the employee to prove that he or she was not intoxicated at the time of the injury. In view of the evidence presented in this case, we cannot conclude that the hearing officer's determination is 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 decision and order of the hearing officer are affirmed.

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

**JAVIER GONZALEZ  
3421 WEST WILLIAM CANNON DRIVE  
SUITE 131, PMB 113  
AUSTIN, TEXAS 78745.**

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Edward Vilano  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Margaret L. Turner  
Appeals Judge