

APPEAL NO. 030242  
FILED MARCH 25, 2003

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 9, 2003. With respect to the disputed issues before him, the hearing officer determined that respondent 1 (claimant) sustained a compensable injury on \_\_\_\_\_, and that the claimant was an employee, for workers' compensation purposes, of the appellant (employer) on the date of the injury. The employer appeals the determinations, arguing that the claimant was not an employee of the employer, and thus could not have sustained an injury covered by the employer's workers' compensation policy that was written by respondent 2 (carrier). There is not a response in the file on behalf of either respondent.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury on \_\_\_\_\_. The claimant testified to his injury, sustained when he fell from a roof upon which he was working, and the carrier signed a Benefit Dispute Agreement (TWCC-24) dated August 20, 2002, in which it agreed that the claimant did, in fact, sustain a compensable injury. Under the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer was acting within his province as the fact finder in resolving the evidence in favor of the claimant and nothing in our review of the record demonstrates that the hearing officer's determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). There was not a genuine dispute whether the claimant was injured, only as to whether the claimant was an employee covered by the employer's workers' compensation insurance.

The hearing officer did not err in determining that the claimant, for workers' compensation purposes, was an employee of the employer on the date of injury. The Appeals Panel has previously addressed, at length, the statutory provisions and other governing law with respect to a contractor with a governmental entity and the contractor's responsibilities regarding the provision of workers' compensation coverage for its workers on said contracts. See Texas Workers' Compensation Commission Appeal No. 990687, decided May 19, 1999; Texas Workers' Compensation Commission Appeal No. 982047, decided September 28, 1998. Sections 406.096 and 406.124 combine to require that contractors with a governmental entity, as was the case here, are required to supply written proof of workers' compensation coverage, as are any subcontractors, as there were here. In Appeal Nos. 990687 and 982047, *supra*, we opined that a contractor could not obviate its duty to provide workers' compensation

coverage for its workers by subcontracting the actual work to another contractor without proof of the others' workers' compensation insurance. The hearing officer decided that the employer here attempted to avoid, unlawfully, its responsibilities to both the governmental entity and to the potential injured workers in not providing, or requiring the provision of, the evidence of workers' compensation insurance. We note that in the TWCC-24, the carrier agreed that the claimant was an employee of the employer for the purposes of workers' compensation. The record and the governing principles support the hearing officer's determination that the claimant was an employee of the employer for the purposes of workers' compensation.

The hearing officer's decision and order is affirmed.

The true corporate name of the employer is **BRADFORD HOLDING COMPANY, INCORPORATED** the name and address of its registered agent for service or process is

**GARRY BRADFORD  
4545 CORONA, SUITE 105  
CORPUS CHRISTI, TEXAS 78411.**

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

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Terri Kay Oliver  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge