

APPEAL NO. 030483  
FILED MARCH 27, 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 16, 2003. The hearing officer resolved the disputed issues by deciding that although the appellant (claimant) did not sustain an injury in the course and scope of his employment with his employer, the claimant has a compensable injury because the respondent (carrier) waived its right to contest compensability of the injury, and that the claimant had disability from August 31 through November 13, 2002. The claimant appeals the hearing officer's determination that he was not injured in the course and scope of his employment. The carrier requests affirmance. There is no appeal of the hearing officer's determinations that the carrier waived its right to contest compensability of the injury, that the claimant has a compensable injury due to the carrier's waiver of its right to contest compensability, and that the claimant had disability for the time period found by the hearing officer, and those determinations have become final under Section 410.169.

DECISION

Affirmed.

The hearing officer resolved the conflicting evidence by finding that the claimant has an injury to his left foot, and that on \_\_\_\_\_, the claimant did not sustain an injury to his left foot as a result of a golf cart running over his foot while working for the employer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The finder of fact may believe that a claimant has an injury, but disbelieve that the injury occurred in the course and scope of the claimant's employment. We conclude that the hearing officer's determination that the claimant did not sustain an injury in the course and scope of his employment with the employer is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). However, due to the carrier's waiver of its right to contest compensability, the claimant has a compensable injury.

We affirm the hearing officer's decision and order.

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

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Robert W. Potts  
Appeals Judge

CONCUR:

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Terri Kay Oliver  
Appeals Judge

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Edward Vilano  
Appeals Judge