APPEAL NO. 030820
FILED MAY 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 March 3, 2003. With respect to the issues before her, the hearing officer determined that the respondent (claimant) was in the course and scope of his employment at the time he was injured in a motor vehicle accident on _____; that he had disability, as a result of his compensable injury, from _____, through the date of the hearing; and that the appellant (carrier) is not relieved of liability for compensation pursuant to either Section 406.032(1)(A) because the claimant was in a state of intoxication at the time of the injury or Section 406.032(2) because the claimant's horseplay was a producing cause of the injury. In its appeal, the carrier challenges the hearing officer's determinations that the claimant was in the course and scope of his employment at the time of his accident and that he had disability from _____, through the date of the hearing. The appeal file does not contain a response to the carrier's appeal from the claimant. The carrier did not appeal the hearing officer's intoxication and horseplay determinations and they have, therefore, become final pursuant to Section 410.169.

DECISION

Affirmed.

In challenging the hearing officer's determination that the claimant was in the course and scope of his employment at the time of his motor vehicle accident, the carrier argues that the claimant had deviated from the course and scope because he was driving to a fast food restaurant to get some food. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer specifically noted that even though the claimant was going to stop for lunch, he was still traveling toward his employer's location to return the truck at the end of his shift when the accident occurred. Nothing in our review of the record reveals that the hearing officer's determination in that regard, or her determination that the claimant remained in the course and scope of his employment at the time of his accident, is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse the challenged determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The carrier also argues that the hearing officer's disability determination is against the great weight of the evidence. It is well-settled that disability can be established by the claimant's testimony alone, if that testimony is believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). The hearing officer was acting within her province as the fact finder in crediting the claimant's testimony and in finding disability based upon that testimony. The determination that the claimant had disability from _____, through the date of

the hearing is not so against the great weight of the evidence as to compel its reversal on appeal. Cain, *supra.*

The hearing officer's decision and order are affirmed.

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

RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Veronica Lopez
Appeals Judge