

APPEAL NO. 032184
FILED OCTOBER 10, 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 July 17, 2003. The hearing officer determined that the respondent (claimant herein) suffered a compensable injury on _____, and that the claimant had disability beginning on March 8, 2003, and continuing through May 4, 2003. The appellant (carrier herein) files a request for review, contending that the claimant did not suffer a compensable injury or have disability because his injury did not take place in the course and scope of his employment. There is no response from the claimant to the carrier's request for review in the appeal file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The facts of this case are not in dispute. The claimant, who testified that he first began working for the employer in 1966, was employed on _____, as an inspector of fire control systems. The claimant testified that he drove from his home to the shop to pick up his assignments for the day. The claimant testified that his first assignment was to inspect a fire system in (city 1) and he proceeded to that job and performed that inspection. The claimant testified that his next job was in (city 2) and he was proceeding from the job in (city 1) to the job in (city 2) when he was rear-ended and injured in a motor vehicle accident. It was undisputed that the claimant was in a company vehicle at the time of the accident.

The claimant testified that he had made an appointment with his doctor for _____, to pick up some blood pressure medication and that he had informed his employer that he intended to stop by his doctor's office to pick it up. The claimant testified that he intended to stop by his doctor's office on his way between the job in (city 1) and the job in (city 2). However, at the time he was rear-ended he had not yet turned off to go to his doctor's office, but was still traveling along the most direct route between the job in (city 2) and the job in (city 1).

The sole basis upon which the carrier is appealing the hearing officer's decision that the claimant suffered a compensable injury and had disability is that the claimant was not in the course and scope of his employment at the time of his injury. The carrier has two separate points in support of its position. The carrier first argues that the claimant was not in the course and scope of his employment, even though in a company vehicle, pursuant to Section 401.011, because he was not furthering the affairs of the employer at the time of the injury and that Section 401.011(B) and dual purpose doctrine did not bring the claimant into the course and scope of employment,

relying upon St. Paul Fire and Marine Ins. Co. v. Confer, 956 S.W.2d 825 (Tex. App.-San Antonio 1997, pet. denied) (hereinafter Confer).

We find no merit in the carrier's contention that the claimant was not furthering the affairs of the employer at the time of the accident. At the time of the accident the claimant was traveling from one job site toward his next job site. Traveling from job site to job site to perform inspections was the claimant's job. Thus the fact that the claimant was moving from one job to the next was furthering the affairs of the employer. The hearing officer recognized this when he made the following Finding of Fact No. 7:

The claimant was neither coming to nor going from work but had already arrived at work and was traveling between inspection sites as required by his employment when he was involved in the motor vehicle accident on _____.

We also find the carrier's reliance on Confer completely misplaced. The facts of the Confer case are set out in the both the opinion of the San Antonio Court of Appeals and in the decision of the Appeals Panel, Texas Workers' Compensation Commission Appeals Panel No. 941569, decided January 5, 1995. Essentially, in that case, Dr. Confer had left his office earlier than usual to pick up some computer supplies for the clinic and then planned to head home. His was unfortunately involved in a fatal motor vehicle accident during the trip. The accident took place at a point on his route that was both on a direct route to the store at which he planned to stop and his home. The hearing officer found that Dr. Confer was in the course and scope of his employment. In a decision authored by former Chief, the Appeals Panel reversed and rendered that Dr. Confer was not in the course and scope of his employment. That Appeals Panel decision was overturned by the District Court and the decision of the District Court overturning it was affirmed by the San Antonio Court of Appeals in Confer, holding that Dr. Confer was in the course and scope of his employment at the time of his death. While the decision of Appeals Panel in the Confer case supports the carrier's argument, it does not appear to us that the decision of the Court of Appeals in Confer lends any support to the carrier's position.

The decision and order of the hearing officer are affirmed.

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

GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Elaine M. Chaney
Appeals Judge