

APPEAL NO. 032635  
FILED NOVEMBER 17, 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 September 9, 2003. The hearing officer determined that: (1) the injury of \_\_\_\_\_, occurred while the claimant was in a state of intoxication, as defined in Section 401.013, from the introduction of a controlled substance, thereby relieving the respondent/cross-appellant (carrier) of liability for compensation; and (2) the appellant/cross-respondent (claimant) did not have disability because the injury is not compensable. The claimant appeals these determinations on sufficiency of the evidence grounds. The carrier urges affirmance of the hearing officer's intoxication determination. The carrier filed a conditional cross-appeal of the hearing officer's finding of fact that the claimant was unable to obtain or retain employment at his preinjury wages from April 12 through August 9, 2003. The claimant filed a cross-response urging affirmance of said finding of fact.

DECISION

Affirmed.

**INTOXICATION**

The hearing officer did not err in determining that the injury occurred while the claimant was in a state of intoxication, as defined in Section 401.013, from the introduction of a controlled substance, thereby relieving the carrier from liability. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's intoxication 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).

**DISABILITY**

The claimant's challenge to the hearing officer's disability determination is premised upon the success of his argument with regard to intoxication. Given our affirmance of the injury determination, we likewise affirm the hearing officer's determination that the claimant did not have disability. Because the carrier is not aggrieved by this determination, we need not address its conditional cross-appeal.

The decision and order of the hearing officer is affirmed.

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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Edward Vilano  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Chris Cowan  
Appeals Judge