

APPEAL NO. 040476
FILED APRIL 23, 2004

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 February 2, 2004. The hearing officer determined that respondent (claimant) sustained a compensable injury in the course and scope of employment and that he had disability from June 24 to September 16, 2002. Appellant (carrier) appealed these determinations, contending that there was no compensable injury because claimant was not on a special mission and was not injured in the course and scope of his employment. Carrier also contends that claimant does not have disability because there is no compensable injury. The file does not contain a response from claimant.

DECISION

We affirm.

Carrier contends that the hearing officer erred in applying the law to the facts of this case. Carrier asserts that claimant was not on a special mission and that, because the injury was not in the course and scope of claimant's employment, claimant's injury is not compensable and claimant does not have disability. Claimant testified that he usually does not work on Saturdays. Claimant said that on Saturday, June 22, 2002, he was contacted and sent to a worksite to supervise loading. Claimant was injured on his way back home after the loading was completed. He was traveling in a company assigned vehicle. The hearing officer determined that claimant was injured in the course and scope of his employment. We agree. See Texas Workers' Compensation Commission Appeal No. 022592, decided November 19, 2002; Texas Workers' Compensation Commission Appeal No. 980133, decided March 6, 1998.

Carrier contends that claimant was merely traveling home from work, or from an alternate worksite, citing Texas Workers' Compensation Commission Appeal No. 990949, decided June 17, 1999; and Evans v. Illinois Employers Ins. of Wausau, 790 S.W.2d 302 (Tex. 1990). However, this case is distinguishable from the usual "coming and going" case in that the hearing officer could find that claimant had been directed to go to a worksite on his day off. Claimant was not merely coming home from work on a usual workday. Carrier contends that an employer may direct that work should begin at an alternate worksite without creating a special mission. We agree. The distinguishing factor in this case was that claimant's workweek was Monday through Friday. Given the unusual Saturday assignment, the hearing officer could find that claimant was directed on a special mission. Carrier asserts that claimant was not in the course and scope of his employment because his assignment was completed and he was on his way home. However, if an employee is sent on a special mission, he is considered as still on such mission while returning from the place to which he was required by his employer to go, unless he deviates from the purpose of his mission and engages in an enterprise of his own. Texas Workers' Compensation Commission Appeal No. 991341, decided August

9, 1999. Given our affirmance that the injury is compensable, carrier's argument that claimant did not have disability fails and we affirm the disability determination as well.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY, A DIVISION OF ZURICH NORTH AMERICA** and the name and address of its registered agent for service of process is

**LEO F. MALO
1222 MERIT DRIVE SUITE 700
DALLAS, TEXAS 75251.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge