APPEAL NO. 040820
FILED MAY 20, 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 (CCH) was held on March 2, 2004. The hearing officer determined that the appellant (claimant) was not in the course and scope of employment when injured on _____, and that the claimant did not have disability because he did not sustain a compensable injury. The claimant appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant asserts that the Statement of the Evidence incorrectly and inadequately recites the facts as presented at the CCH. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

First, the claimant complains on appeal that the hearing officer's Statement of the Evidence does "not adequately and accurately reflect the facts as submitted at the [CCH], and are, at the very least, misleading if not totally and completely incorrect." Our review of the record does not substantiate the claimant's assertion. Section 410.168(a) only requires the hearing officer to make findings of fact and conclusions of law, determine whether benefits are due, and award benefits, if any. We perceive no error.

Section 401.011(10) defines a "compensable injury" as "an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle." "Course and scope of employment" is defined in Section 401.011(12). The claimant had the burden to prove that he was injured in the course and scope of his employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented to the hearing officer on the issue of whether the claimant was in the course and scope of his employment when he slipped and fell. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. In the instant case, the hearing officer specifically found that on _____, the claimant was not engaged in an activity that originated with the employer's work and that the claimant was not furthering the employer's business when he slipped and fell as he walked around the side of his personal car, which he had just washed and rinsed. The hearing officer's determination that the claimant did not sustain an injury in the course and scope of his employment 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. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The hearing officer did not err in determining that the claimant does not have disability because, without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision and order are affirmed.

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

JOSEPH KELLEY-GRAY, PRESIDENT
6907 CAPITOL OF TEXAS HIGHWAY NORTH
AUSTIN, TEXAS 78755.

_____
Veronica L. Ruberto
Appeals Judge

CONCUR:

_____
Robert W. Potts
Appeals Judge

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Margaret L. Turner
Appeals Judge