

APPEAL NO. 041381  
FILED JULY 30, 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 May 11, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury to her right knee and ankle on \_\_\_\_\_; that the claimant was not in the course and scope of her employment at the time of the \_\_\_\_\_, slip and fall; and that since there is no compensable injury, there can be no disability. The claimant appealed, disputing the determinations of the hearing officer on sufficiency of the evidence grounds. The claimant argues she was in the course and scope of her employment at the time she slipped in the parking lot. The appeal file did not contain a response from the respondent (carrier).

DECISION

Affirmed.

A claimant in a workers' compensation case has the burden to prove by a preponderance of the evidence that she sustained a compensable injury in the course and scope of her employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A "compensable injury" means "an injury that arises out of and in the course and scope of employment for which compensation is payable under this subtitle." Section 401.011(10). "Course and scope of employment" means, in pertinent part, "an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer." Section 401.011(12). In General Ins. Corp. v. Wickersham, 235 S.W.2d 215 (Tex. Civ. App.-Fort Worth 1950, writ ref'd n.r.e.), the court stated that an injury is not compensable if received during a deviation by the employee from the course and scope of employment, but after the deviation is over, injuries thereafter received are compensable. In Lesco Transportation Company, Inc. v. Campbell, 500 S.W.2d 238 (Tex. Civ. App.-Texarkana 1973, no writ), the court stated as follows:

Stated in converse terms, the rule is that when an employee abandons and turns aside from the course and scope of his employment, such deviation defeats a claim for compensation. Such deviation occurs if at the time of the injury the employee is engaged in and pursuing personal work or objectives that do not further the employer's interest. An injury received under such circumstances is not from a hazard that has to do with and originates in the employer's business, work, trade or profession. [Citation omitted.]

In the instant case, the hearing officer specifically found that the claimant was not furthering the affairs of the employer when she was in the employee's parking lot checking on her son's car because of mechanical problems. The claimant had the burden to prove that she sustained an injury in the course and scope of her employment and that she had disability. These issues presented factual questions for the hearing officer to determine from the evidence presented. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Nothing in our review of the record indicates that the hearing officer's determinations are 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).

We affirm the decision and order of the hearing officer.

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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Margaret L. Turner  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Robert W. Potts  
Appeals Judge