

APPEAL NO. 060776
FILED JUNE 19, 2006

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 March 7, 2006. The hearing officer resolved the disputed issue by deciding that on _____, the appellant (claimant) did not sustain a compensable injury and that because the claimant did not have a compensable injury, the claimant did not have disability. The claimant appealed, disputing both the compensable injury and disability determinations. The respondent (carrier) responded, urging affirmance.

DECISION

Reversed and rendered.

The claimant testified that while performing her job duties she fell at work, hitting her head on a support pole. Although she immediately reported the incident and felt a burning sensation, she continued working. The evidence reflects that the claimant first received medical treatment on (nine days after date of injury), nine days later. In the Background Information portion of his decision, the hearing officer stated that “the credible medical evidence in the record does not support a finding that claimant had an injury, that is damage to the physical structure of the body in the incident at work on _____, as the report of the physical examination 9 days later did not document any findings of damage to the physical structure of the body.” In evidence is a medical report dated (nine days after date of injury), which contains a diagnosis of contusion to the head and scalp and a cervical strain, and which describes the fall at work on _____. The treatment plan included scheduling a CT for the head to rule out any significant brain injury and medication was prescribed. The doctor who examined the claimant on (nine days after date of injury), released her to return to work with restrictions and required a follow-up visit. Section 401.011(26) defines “injury” as “damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm.” It is clear from the hearing officer’s comments that he was persuaded that the incident at work occurred but based his determination of no compensable injury on his belief that the medical records did not document an injury. The hearing officer’s determination that on _____, the claimant was not injured in the course and scope of employment is against the great weight and preponderance of the evidence. We reverse the hearing officer’s determination that on _____, the claimant did not sustain a compensable injury and render a new determination that on _____, the claimant did sustain a compensable injury. The hearing officer specifically found that the claimed injury was a cause of the claimant’s inability to obtain and retain employment equivalent to claimant’s preinjury wages beginning on August 17, 2005, and continuing through December 1, 2005. The hearing officer cited the functional capacity evaluation in evidence dated December 1, 2005, which showed the claimant to be functioning at a medium duty level—a level that would have permitted the claimant to perform at her

previous job. There is sufficient evidence in the record to support that finding. The hearing officer determined that the claimant did not have disability because there was no compensable injury. Since the compensable injury finding has been reversed and a new decision rendered that the claimant sustained a compensable injury, we also reverse the hearing officer's determination that the claimant did not have disability and render a new determination that the claimant had disability beginning on August 17, 2005, and continuing through December 1, 2005.

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
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701-3232.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge