

APPEAL NO. 012957
FILED JANUARY 11, 2002

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 October 18, 2001. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) did not sustain an injury in the course and scope of his employment on _____. In his appeal, the claimant essentially argues that the hearing officer's determination that he had deviated from the course and scope of his employment at the time he fell and fractured his ankle on the drilling site is against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was not in the course and scope of his employment under the personal comfort doctrine at the time he fell and fractured his ankle. There was significant conflict in the evidence as to whether or not the claimant was walking on a hill near the drilling rig after having gone to the restroom. The hearing officer was acting within his province as the fact finder and the sole judge of the weight and credibility of the evidence under Section 410.165(a) in resolving that conflict and determining that the claimant was not on the way back to the drilling rig, after having gone to the restroom, at the time of his fall. Indeed, the hearing officer specifically found that the claimant had deviated from the course and scope of his employment at the time of his accident and that, as a result, he was not within the course and scope of his employment under the personal comfort doctrine. There is sufficient evidence to support the hearing officer's determination in that regard and nothing in our review of the record reveals that the challenged determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

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

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge