APPEAL NO. 040159
FILED MARCH 8, 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 December 18, 2003. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____. The appellant (carrier) appeals this determination, arguing that the claimant was not in the course and scope of her employment at the time of her injury. The appeal file contains no response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was acting in the course and scope of her employment at the time that she was injured on _____. The access doctrine is an exception to the rule that injuries occurring while going to or from the place of employment are not compensable. Texas Workers' Compensation Commission Appeal No. 950156, decided March 9, 1995, cited Standard Fire Insurance Co. v. Rodriguez, 645 S.W.2d 534, 538 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.) for the proposition that:

> If the employee be injured while passing, with the express or implied consent of the employer, to or from his work by a way over the employer's premises, or over those of another in such proximity and relation as to be in practical effect, a part of the employer's premises, the injury is one arising out of and in the course of the employment as though it had happened while the employee was engaged in his work at the place of its performance.

In Texas Workers' Compensation Insurance Company v. Matthews, 519 S.W.2d 630 (Tex. 1974), the court referenced cases that have formed the access doctrine as a two-prong test for determining the applicability of the access doctrine. The test is as follows:

1. [Whether] the employer has evidenced an intention that the particular access route or area be used by the employee in going to and from work; and,

2. Where such access route or area is so closely related to the employer's premises as to be fairly treated as a part of the premises.

Whether the access doctrine applies is generally a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was the hearing officer's prerogative to believe all,

part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). In view of the evidence presented in this case, we cannot conclude that the hearing officer's compensability determination is 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 (Tex. 1986). Because we have affirmed the hearing officer's decision based on the access doctrine, we need not address the carrier's arguments regarding the applicability of the personal comfort doctrine.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS ASSOCIATION OF COUNTIES WORKERS' COMPENSATION SELF-INSURANCE FUND** and the name and address of its registered agent for service of process is

SAM SEALE, EXECUTIVE DIRECTOR
1204 SAN ANTONIO
AUSTIN, TEXAS 78701.

_____
Chris Cowan
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Edward Vilano
Appeals Judge