

APPEAL NO. 92351

On June 29, 1992, a contested case hearing was held in (city), Texas before (hearing officer). The issue from the benefit review conference was whether claimant (appellant herein) suffered a compensable injury in the course and scope of his employment on (date of injury). The hearing officer concluded that appellant did not sustain his burden of proof to show that he suffered a compensable injury in the course and scope of his employment. Appellant asks that we review that decision. We will assume this to be a request to review the sufficiency of the evidence supporting the hearing officer's findings and conclusions. The respondent/insurance carrier argues that the hearing officer's decision should be upheld.

DECISION

Finding no error on the part of the hearing officer, we affirm.

Appellant, the sole witness, testified he was employed by (city) (employer) on (date of injury), reconnecting disconnected electric service. He testified that nothing occurred out of the ordinary that day, although there was a lot of work. Around 11:30 a.m. he testified that he experienced chest pains. Appellant's medical records, offered into evidence by respondent, show he was examined and treated at the (VHMC) emergency room that evening, where the assessment was "[c]hest pain, suspect unstable angina." The next day (Dr. SC), a cardiologist, performed a catheterization to rule out coronary artery disease. The findings were essentially normal coronary arteries and normal left ventricular function. An EKG was also performed. The (date) discharge statement signed by Dr. SC diagnosed no acute myocardial infarction, and poor coronary blood flow suggesting an element of coronary vasculitis. Medication and a low-cholesterol diet were recommended. The history contained in the medical records related the chest pains to stress both at work and at home.

Appellant testified that he returned to his usual duties on January 13, 1992. His follow-up consists of taking aspirin and following a diet. He said that his employer has hired another person to help out, which has relieved his pressure on the job.

The Texas Supreme Court has held that for an accident or injury to be compensable there must be an undesigned, untoward event traceable to a definite time and place involving a risk of the employment. Hartford Accident and Indemnity Company v. Olson, 466 S.W.2d 373, 375 (Tex. 1971). The court in that case found noncompensable a heart attack caused by incidents which "are no more than the usual differences and irritations--the stresses and strains--that are apparent in every-day living, as well as in employment." *Id.* at 376. While the instant case does not involve a diagnosed heart attack (which, under the 1989 Act, would require a distinct and separate analysis, Article 8308-4.15), we believe the standard is the same where stress is alleged to have resulted in injury or harm to the physical structure of the body. Where, as here,

a time-and place-specific event related to the employment has not been established, there can be no recovery.

The decision and order of the hearing officer are accordingly affirmed.

Lynda H. Nesenholtz
Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Philip F. O'Neill
Appeals Judge