

APPEAL NO. 931129

Pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act) (formerly V.A.C.S., Article 8308-1.01 *et seq.*), a contested case hearing was held in (city), Texas, on November 9, 1993,(hearing officer) presiding as hearing officer. She determined that the appellant (claimant) did not sustain a compensable injury (heart attack) in the course and scope of his employment. Claimant appeals asking that we review all the evidence and find that the claimant did suffer a compensable heart attack. No response has been filed.

DECISION

The findings and conclusions of the hearing officer being sufficiently supported by the evidence, the decision is affirmed.

Very briefly, the claimant suffered a heart attack on (date of injury), while at home watching television. He had been on vacation the previous two days having last worked on July 30, 1991. He testified that his heart attack was caused by the daily stressful work he did as a security guard for the self-insured hospital district. He also acknowledged that he had suffered a heart attack in 1990 and was on several heart medications. The medical records introduced in evidence indicate that the claimant had a "total occlusion of the obtuse marginal branches" and that an angioplasty procedure was performed on him. None of the medical records introduced discuss or make reference to a work-related causation of the heart attack. A cardiologist, (Dr. Z), called as a witness by the carrier, testified that from the information on the claimant's work "it would be hard to see how his work per se could have caused the heart attack." He also stated that "it was caused by a process which is due to faulty metabolism so that cholesterol is deposited in arteries."

Based upon this evidence, the hearing officer determined that the heart attack was not compensable under the statute. We fully agree. Section 408.008 provides:

COMPENSABILITY OF HEART ATTACKS. A heart attack is a compensable injury under this subtitle only if:

- (1)the attack can be identified as:
 - (a)occurring at a definite time and place; and
 - (b)caused by a specific event occurring in the course and scope of the employee's employment.
- (2)the preponderance of the medical evidence regarding the attack indicates that the employee's work rather than the natural progression of a

preexisting heart condition or disease was a substantial contributing factor of the attack; and

(3)the attack was not triggered solely by emotional or mental stress factors, unless it was precipitated by a sudden stimulus.

Clearly, the evidence in this case did not establish the first condition provided in Section 408.008. And, it is equally clear, there was no medical evidence to meet the second condition. To the contrary, the medical evidence before the hearing officer showed that the work was not a substantial contributing factor rather that it was the natural progression of a pre-existing heart condition or disease. See Texas Workers' Compensation Commission Appeal No. 91009, decided September 4, 1991; Texas Workers' Compensation Commission Appeal No. 91044, decided November 14, 1991; Texas Workers' Compensation Commission Appeal No. 91061, decided December 9, 1991. Texas Workers' Compensation Commission Appeal No. 91063, decided December 5, 1991. Accordingly, the decision of the hearing officer is affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Thomas A. Knapp
Appeals Judge