

APPEAL NO. 93283

Pursuant to the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. art. 8308-1.01 *et seq.* (Vernon Supp. 1993) (1989 Act), a contested case hearing was held in (city), Texas, on March 16, 1993, (hearing officer) presiding as hearing officer. An earlier session of the hearing was held in (city), Texas; however, following a continuance, the appellant (claimant) requested that the hearing be transferred to (city) which was closer to where he then resided. The hearing officer determined that the claimant did not have disability as a result of an injury on (date of injury). Claimant asserts that some of the hearing officers' findings of fact are only partially correct, states he is seeking disability because of headaches and lack of sleep, and urges that he has established his disability. The respondent (carrier) requests the decision be affirmed arguing there is sufficient evidence to support the hearing officer.

DECISION

Determining there is sufficient evidence to support the findings and conclusion of the hearing officer, the decision is affirmed.

The single issue before the hearing officer was whether the claimant had disability as a result of an uncontested injurious exposure to hydrogen sulfide on (date of injury). Medical benefits were not in issue and apparently have been paid by the carrier. The hearing officer set out the evidence in great detail in his Decision and Order and we find that it is a fair and adequate rendition. Accordingly, we adopt it for purposes of this decision. Very briefly, the claimant and other coworkers were exposed to fumes from hydrogen sulfide while in the course and scope of employment. The fumes were apparently strong enough to register and cause a color change in meters the workers' were wearing requiring the workers to evacuate the area to a point beyond a caution ribbon surrounding the location. Although not well developed in the evidence, it appears that the other workers sustained only minor reactions from the fumes and did not miss work. The claimant, who complained of symptoms such as nose bleed, headaches, and shortness of breath, was seen by a (Dr. P) on January 23rd. Dr. P performed an EKG, urinalysis and an EKG rhythm strip to test for the toxic effect of the hydrogen sulfide on the claimant. He reported that the claimant did not have clinical symptoms or signs of toxicity. Dr. P subsequently saw the claimant on January 24th, 25th, and 27th for continued examinations which revealed no abnormalities although the claimant indicated he had headaches, chills, runny nose, fatigue and weakness. Dr. P released the claimant to work on January 24th. The claimant did not return to work and there is scant evidence as to his activities until early March when he came to his mother's home closer to (city), Texas. The claimant's behavior was strange, threatening, disoriented and violent to the point that the sheriff was called and the claimant was ultimately taken to the (ASH) on April 14, 1992. His treatment included Haldol, an antipsychotic drug and he was subsequently released on April 29, 1992, at his request but against medical advice. The diagnosis at ASH was schizophreniform disorder. He was referred to the Center and subsequently was seen by and treated by a number of physicians. (Dr. DV) of the, with whom the claimant continues to treat, wrote on October 30, 1992, the

following:

After reviewing my records and other records that you have sent me, it is my opinion that (claimant's) psychotic symptoms appear to be unrelated to the hydrogen sulfide gas exposure. It is possible, however, that some of his vascular headaches are related to the original hydrogen sulfide exposure but should respond nicely to treatment.

Earlier, on July 27, 1992, Dr. DV indicated that the claimant "has a completely normal neurologic examination at this time and appears to have a number of subjective complaints, including headaches, dizziness and apparently occasional nosebleeds." Dr. DV states the cause of this is not completely clear to him. Later, on February 22, 1993, Dr. DV indicates that the claimant's neurologic exam remains normal but notes that he is still under the care of a psychiatrist.

The claimant saw a (Dr. MW) who reported in a March 15, 1993 letter that she has examined the claimant in October 1992, who had complaints of "recurrent bilateral epistaxis, left frontal headaches and persistent cough." She states in her report:

On examination in October 1992, no abnormalities of the nasal or nasopharyngeal mucosa or submucosal tissues could be found. He was sent for a CT scan of the paranasal sinuses and chest x-ray, both of which were in normal limits. He was advised to return during or shortly following his next nosebleed to help identify the source. He did not return until March 10, 1993 at which time he had been having right sided epistaxis that sounded mostly interior. He denied any postnasal bloody drainage. On examination again the mucosa looked non-inflamed without erythema or ulcerations.

* * * * *

My impression is that (claimant) is having intermittent epistaxis related to drying of the nasal mucosa and routine trauma during nose blowing. I see no ulceration or inflammation which could be related to toxic exposure.

In November, the claimant had a consultation with (Dr. C), a specialist in toxicology, who examined him and his medical records. In pertinent part, Dr. C reported as follows:

Clearly, this patient has experienced an acute psychotic break temporally related to the events of his employment wherein there appears to have been potential for exposure to hydrogen sulfide gas. During the hours immediately post exposure to hydrogen sulfide and at the time of his examination by a physician within approximately eight hours of the exposure, the patient manifest no stigmata characteristic of hydrogen sulfide injury sufficient to induce long term

effects.

The subjective complaints of headache during the period of exposure and the perception of nausea during the subsequent hours could possibly be related to an exposure to hydrogen sulfide. The intensity of this exposure, however, clearly is insufficient to account for any of the patient's Clinical manifestations beyond a few days of the acute episode if, in fact, hydrogen sulfide exposure occurred.

In reasonable medical probability, hydrogen sulfide exposure does not, and did not, account for this patient's psychotic behavior secondary to the events of January 22, 1992. With regard to recovery from the alleged occupational exposure, complete recovery would have occurred within a few days of the episode and no residual dysfunction at this time can be related to hydrogen sulfide.

As the hearing officer noted, the claimant has unfortunately experienced a number of health related problems. However, the burden is on the claimant to establish that he has disability flowing from the undisputed and compensable exposure to hydrogen sulfide on (date of injury). Texas Workers' Compensation Commission Appeal No. 92322, decided August 14, 1992. As discussed by the hearing officer, the claimant has failed to show by a preponderance of the evidence that his problems are work-related and that he has disability as a result of the exposure. Rather, the medical evidence here is convincing that the claimant's medical problems and asserted disability are not causally connected to the fume inhalation in January. Where the matter of causation is not in an area of common experience, as is the situation under the facts of this case, expert or scientific evidence can be essential to satisfactorily establish the link or causation between the work related incident and the claimed disability. Texas Workers' Compensation Commission Appeal No. 92187, decided June 29, 1992. There is no scientific or medical evidence to link a psychotic symptom or schizophreniform disorder to the exposure to hydrogen sulfide under the circumstance present here. And, the only medical evidence of any link between headaches, nose bleed and the other subjective complaints of claimant (presupposing it was established that such would result in disability under the circumstances) was the brief reference of Dr. DV that "it is possible that some of his vascular headaches are related to the original" exposure. This does not, particularly when viewed with the voluminous other medical evidence of record, measure up to the standard of "a reasonable medical probability." Appeal No. 92187, *supra*.

We have considered the claimant's complaints with the hearing officer's findings of fact. Our review of the record discloses to us that there is sufficient evidence to support each of the findings and that the claimant's position is basically his disagreement with the import, inferences or emphasis the hearing officer placed on particular items of evidence or

his urging matters that were not in evidence at the hearing. We do not find a basis to conclude that the hearing officer has overlooked pertinent evidence or misstated the facts in the case. His Finding of Fact No. 21 somewhat sums up his evaluation of the evidence in the case wherein he finds that with regard to recovery from the exposure, "complete recovery would have occurred within a few days of the episode. . . ." The evidence of record supports this finding. As has been repeatedly observed, the hearing officer is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given the evidence. Article 8308-6.34(e) Where, as here, there is sufficient evidence to support his determinations and his decision is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, there is no sound basis to disturb the decision. Texas Workers' Compensation Commission Appeal No. 92232, decided July 20, 1992. Accordingly, the decision is affirmed.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Thomas A. Knapp
Appeals Judge