APPEAL NO. 94327

This appeal arises under the Texas Workers' Compensation Act of 1989, TEX. LAB. CODE ANN. § 401.001 *et seq*. On February 8, 1994, a contested case hearing was held in (city), Texas, with (hearing officer) presiding. He determined that appellant's (claimant) heart attack in (month year) was not caused by his work. Appellant asserts that the circumstances of his work, his lack of prior treatment for a heart condition, and no indication of previous disease process other than "some occlusion" of his arteries, make the decision against the great weight of the evidence. Claimant also attacks findings of no disability. Respondent (carrier) replies that the decision should be affirmed.

DECISION

We affirm.

Claimant had worked for (employer) less than one year, but had worked in the oil fields seven years when he had a heart attack on (date of injury). At that time, claimant was 37 years old. No medical record indicates past treatment of a heart condition, and claimant testified that he had never been treated for heart disease. Claimant did not testify what time he started work on (date of injury), but he stated that he worked eight hour shifts at this time and that he got off work approximately 10:45 p.m. that night. He stated that he worked on the derrick. He characterized that day as "regular duties" being performed. He added, "later on that afternoon" there were "little things" to do. "After we made what repairs we was doing, about 8:30, it was getting where it was kind of slacking up, and we wasn't working as hard, and that's when I started getting real nauseated." He said he then ate something and vomited. He thought it was indigestion, which he had said he had experienced occasionally since a fire on August 23, 1992. He continued to work, which he described as showing a trainee the job. At approximately 9:00 p.m. he asked for an aspirin because he felt bad, like he had indigestion. He said that he had shooting pain in his left shoulder and arm. He had ridden with others so was driven back to (city) at the end of the shift. He went home and later went to the hospital.

Prior to (date of injury), claimant described having to fight a large fire for five hours at the work site on August 23, 1992, and having a heavy drill collar mash his foot on (date of injury), causing a bruise.

He was admitted to (hospital) early in the morning of (date). A "posterior myocardial infarction" was suspected, and on September 16th, cardiac catheterization was performed. This showed a 70% "mid diagonal branch lesion, 100% mid coronary artery at the right ventricular mean with distal left and right collaterals." Claimant was discharged on September 19th with a diagnosis of posterior wall myocardial infarction and double vessel coronary artery disease. Claimant was re-admitted to the hospital on October 4th and discharged on October 6th. At this time claimant had chest pain. On February 11, 1993, claimant's doctor, (Dr. P) wrote a letter in which he said that claimant should not do the strenuous work that he had done in the past.

Other than recording in the history that claimant felt symptoms while at work, the medical records, offered by claimant into evidence, do not comment one way or the other concerning claimant's work or work activities, other than the letter of February 11, 1993, which refers to future work after claimant's angioplasty.

Carrier provided a statement from (Dr. M), whose letterhead indicates he may be a board certified cardiologist. Dr. M states that he reviewed medical records of claimant, but does not describe them. He does refer to claimant's hospital admission, facts from the history, and the catheterization that was performed. He notes that from "your cover letter" that "at the time or prior to the episode of chest pain at work that he was not performing any strenuous or unusual work activities." We note that claimant's testimony does not disagree in regard to the level of work he was performing at the time of chest pain, but it does not directly address the level of work "prior to" that pain. We also note that the cover letter referred to was not offered into evidence. The amount of weight to be given such an ambiguous medical opinion was for the hearing officer to determine. In such a situation, the hearing officer would not be remiss to seek admission of a party's cover letter to the doctor, especially when the doctor points out that the opinion was based in part on representations made in that cover letter. Absent admission of a cover letter that made representations of fact to a doctor, the hearing officer would not be compelled to give any weight to the resulting doctor's opinion. From whatever evidence Dr. M was considering, he did opine that he could see "no relationship" of the heart attack to claimant's "occupation."

The hearing officer is the sole judge of the weight and credibility of the evidence. *See* Section 410.165. He could choose to give some weight to the opinion of Dr. M that indicated no relationship of the work to the heart attack. In addition, he could view the medical records describing the catheterization as indicative of a preexisting heart condition or disease, even though claimant had not received treatment or been diagnosed previously. The finding of fact that the work activities did not cause the heart attack is sufficiently supported by the claimant's description of what he was doing immediately before his chest pains. The hearing officer could view the August 23, 1992, fire fighting exertion as not causative because the sequence of events, including the period of three weeks in between, did not provide a logical connection, without medical evidence relating the two events. Similarly, the mashed foot of the previous day could be viewed as not within the hearing officer's common knowledge as causative of a heart attack. The medical records provided by claimant do not state that work was a factor in regard to the heart attack, and those records sufficiently support the conclusion of law of the hearing officer that the preponderance of medical evidence does not indicate that work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor.

Under the criteria of Section 408.008 of the 1989 Act, a heart attack can be compensable only when it is found to be caused by a specific event in the employment and when the preponderance of medical evidence indicates that work rather than the natural progression of a preexisting heart disease or condition was a substantial contributing factor. *See* Texas Workers' Compensation Commission Appeal No. 91081, decided December 31, 1991, and Texas Workers' Compensation Commission Appeal No. 93948, decided

December 3, 1993. While both standards must be met for a heart attack to be compensable, the hearing officer, based on sufficient evidence, found neither standard was met by claimant.

With no compensable injury, there can be no disability under the 1989 Act. *See* Section 401.11(16).

Finding that the decision and order are not against the great weight and preponderance of the evidence, we affirm. *See* In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Joe Sebesta
Appeals Judge

CONCUR:

Stark O. Sanders, Jr.
Chief Appeals Judge

Alan C. Ernst
Appeals Judge